Nos. 15-233 & 15-255

IN THE

Supreme Court of the United States

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Petitioners,

v.

FRANKLIN CALIFORNIA TAX-FREE TRUST, *et al.*,
Respondents.

MELBA ACOSTA-FEBO, *et al.*,
Petitioners,

v.

FRANKLIN CALIFORNIA TAX-FREE TRUST, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the First Circuit

JOINT APPENDIX VOLUME I
(pp. 1-323)

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January 19, 2016

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AUGUST 21, 2015 (15-233) & AUGUST 26, 2015 (15-255)
CERTIORARI GRANTED DECEMBER 4, 2015

TABLE OF CONTENTS

Page

Dockets

Docket,
U.S. Court of Appeals for the First Circuit,
Franklin California Tax-Free Trust, et al. v. Commonwealth of Puerto Rico, et al.
(No. 15-1218) 1

Docket,
U.S. Court of Appeals for the First Circuit,
BlueMountain Capital Management, LLC v. Garcia-Padilla, et al. (No. 15-1221) 36

Docket,
U.S. Court of Appeals for the First Circuit,
Franklin California Tax-Free Trust, et al. v. Acosta-Febo (No. 15-1271) 75

Docket,
U.S. Court of Appeals for the First Circuit,
BlueMountain Capital Management, LLC v. Doe
(No. 15-1272) 121

Docket,
U.S. District Court for the District of Puerto Rico,
Franklin California Tax-Free Trust, et al. v. Commonwealth of Puerto Rico, et al.,
No. 3:14-cv-1518 (D.P.R.) 155

Docket,
U.S. District Court for the District of Puerto Rico,
BlueMountain Capital Management, LLC v. Garcia-Padilla, et al.,
No. 3:14-cv-1569 (D.P.R.) 200

Legislative History

43 Cong. Rec. 2010-16 (1909) 219

Hearing on S. 5699 Before the S. Comm. on the Judiciary, 72nd Cong. 1-16, 40-46 (1933) 272

S. Rep. No. 73-407, at 1-6 (1934) 324

Hearings on S. 1868 and H.R. 5950 Before a Subcomm. of the S. Comm. on the Judiciary, 73d Cong. 42-58, 141-47 (1934) 336

H.R. Rep. No. 75-517, at 1-4 (1937) 387

S. Rep. No. 75-911, at 1-3 (1937) 394

H.R. 4307, 79th Cong. 1, 17-18 (1945) 401

H.R. Rep. No. 79-2246, at 1-4, 6-7, 11 (1946) 404

Hearings on H.R. 4307 Before Special Subcomm. on Bankruptcy and Reorganization of the H. Comm. of the Judiciary, 79th Cong. 7-16 (1946) 422

H.R. Rep. No. 94-686, at 1-6, 15-19, 55-57, 61-62 (1975) 447

H.R. Rep. No. 94-938, at 16 (1976) 480

H.R. Rep. No. 95-595, at 1-6, 394-95, 397-98 (1977) 484

H.R. Rep. No. 95-989, at 1, 8-9, 31, 110 (1978) 505

124 Cong. Rec. 32,403, 34,002 (1978) 511

H.R. Rep. No. 96-305, at 1-3 (1979) 523

H.R. Rep. No. 96-1195, at 1, 8 (1980) 529

Hearing on S. 333 and S. 445 Before the S. Comm. on the Judiciary, 98th Cong. 1, 325-26 (1983) 533

Statutes at Large

30 Stat. 544-45 (1898) 541
50 Stat. 653-54, 659 (1937) 546
52 Stat. 840, 842 (1938) 551
60 Stat. 409-16 (1946) 555
66 Stat. 327-28 (1952) 573
90 Stat. 315-17 (1976) 577
92 Stat. 2549-54, 2622 (1978) 584
98 Stat. 333, 368-69 (1984) 600

Other Materials

Puerto Rico Electric Power Authority,
Trust Agreement, §§ 502, 503, 505, 601, 701,
705, 709, 712, 802, 803, 804, 1102 608

Puerto Rico Electric Power Authority,
Power Revenue Bonds, Series 2013A
Official Statement, Cover Page 630

General Docket
United States Court of Appeals for the First Circuit

Court of Appeals Docket #: 15-1218 **Nature of Suit:** 3950 Constitutionality of State Statutes Franklin California Tax-Free, et al v. Commonwealth of Puerto Rico, et al **Appeal From:** District Court of Puerto Rico, San Juan **Fee Status:** filing fee paid	**Docketed:** 02/18/2015 **Termed:** 07/06/2015

Case Type Information:
1) civil
2) private
3) constitutional

02/18/2015	■	CIVIL CASE docketed. Notice of appeal (doc. #122) filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla. Docketing Statement and Appearance form due 03/04/2015. [15-1218] (TS)
02/18/2015	■	SUPPLEMENTAL record filed. Docket entries: Doc. Nos. 46 & 47. [15-1218] (TS)
02/18/2015		AMENDED notice of appeal (doc. #124) filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla on 02/13/2015. [15-1218] (TS)
02/19/2015	■	NOTICE of appearance on behalf of Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla filed by Attorney Margarita L. Mercado-Echegaray. Certificate of service dated 02/19/2015. [15-1218] (MLM)
02/19/2015	■	MOTION to consolidate cases, to expedite *the briefing schedule* filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla. Certificate of service dated 02/19/2015. [15-1218] (MLM)
02/23/2015	■	NOTICE of appearance on behalf of Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla filed by Attorney Zarel Soto-Acaba. [15-1218] (ZJS)
02/26/2015	■	DOCKETING statement filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla. Certificate of service dated 02/26/2015. [15-1218] (MLM)
02/26/2015	■	ORDER entered by William J. Kayatta , Jr.,

		Appellate Judge: Appeals 15-1218 and 15-1221 are consolidated. Each appellee is permitted to file its own brief of 14,000 words or less. The briefing schedule will be as follows: Appellants' Opening Briefs: **March 16, 2015** Appellees Briefs: **April 15, 2015** Appellants' Reply Briefs: **April 29, 2015** Any amicus brief will be due on the same date as the main brief of the party supported. Any amicus brief in support of neither party will be due on the day of the appellants' opening briefs. Oral argument is contemplated for the court's May 2015 sitting. [15-1218, 15-1221] (TS)
02/27/2015	■	NOTICE of appearance on behalf of Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester

		Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series filed by Attorney Linette Figueroa-Torres. [15-1218] (LF)
02/27/2015	■	NOTICE of appearance on behalf of Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla filed by Attorney Christopher Landau. Certificate of service dated 02/27/2015. [15-1218] (CL)
03/03/2015	■	NOTICE of appearance on behalf of Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester

		Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series filed by Attorney David E. Blabey. [15-1218] (DEB)
03/03/2015	■	NOTICE of appearance on behalf of Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and

	Rochester Portfolio Series filed by Attorney Philip Bentley. [15-1218] (PB)
03/05/2015 ■	NOTICE issued. ***After 03/19/2015***, the following attorneys will no longer receive notice of court issued documents in this case unless they register for an appellate ECF account: Eugene F. Assaf for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Susan M. Davies for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Jorge L. Flores-De Jesus for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Michael A. Glick for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Liam P. Hardy for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Claire Murray for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Jeffrey Powell for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, James H. M. Sprayregen for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Laura R. Dominguez-Llerandi for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-

Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund, Jonathan M. Wagner for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund,

		Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund, Richard James Cooper for Puerto Rico Electric Power Authority (PREPA), Alejandro Febres-Jorge for Melba Acosta-Febo, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Virgilio J. Machado Aviles for Puerto Rico Electric Power Authority (PREPA), Claire Murray for Melba Acosta-Febo, Sean Aaron O'Neal for Puerto Rico Electric Power Authority (PREPA), Jeffrey Powell for Melba Acosta-Febo, James H. M. Sprayregen for Melba Acosta-Febo and Maraliz Vazquez-Marrero for Melba Acosta-Febo. [15-1218] (TS)
03/12/2015	■	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1271 filed by Attorney Jorge R. Roig. Certificate of service dated 03/12/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1271]

		(JRR)
03/12/2015	■	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1271 filed by Attorney Joanne A. Tomasini-Muniz. Certificate of service dated 03/12/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1271] (JAT)
03/13/2015	■	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1271 filed by Attorney Lawrence B. Friedman. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1271] (LBF)
03/13/2015	■	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218 filed by Attorney Lewis J. Liman. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required.. [15-1218, 15-1221, 15-1272, 15-1271] (LJL)
03/13/2015	■	NOTICE of appearance on behalf of Not Party

		Puerto Rico Electric Power Authority (PREPA) in 15-1218 filed by Attorney Sean A. O'Neal. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1221, 15-1272, 15-1271] (SAO)
03/13/2015	■	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1271 filed by Attorney Richard J. Cooper. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional case. Correction made by clerk's office. No further action required. [15-1218, 15-1271] (RJC)
03/14/2015	■	NOTICE of appearance on behalf of Movant(s) Professors Clayton P. Gillette and David A. Skeel filed by Attorney Gabriel R. Aviles-Aponte. [15-1218, 15-1221, 15-1272, 15-1271] (GRA)
03/16/2015	■	NOTICE of appearance on behalf of Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221 filed by Attorney Claire McCusker Murray. Certificate of service dated 03/16/2015. [15-1218, 15-1221] (CMM)
03/16/2015	■	BRIEF tendered by Appellants

	Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/16/2015. [15-1218, 15-1221] (CL)
03/16/2015 ■	NOTICE of appearance on behalf of Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series filed by Attorney Thomas Moers Mayer. [15-1218] CLERK'S

	NOTE: Document should have been filed in additional case, 15-1271. Correction made by clerk's office. No further action required. [15-1218] (TMM)
03/16/2015 ■	NOTICE of appearance on behalf of Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series filed by Attorney Manuel Fernandez-Bared. [15-1218] CLERK'S NOTE: Document should have been filed in additional case, 15-1271. Correction

		made by clerk's office. No further action required. [15-1218] (MF)
03/16/2015	■	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: The signature on the document does not match the name of the ECF filer under whose login and password the document was filed. The brief should have only been filed in 15-1271 and 15-1272. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT WITHIN TWO DAYS. [15-1218, 15-1221, 15-1272, 15-1271] (JER)
03/16/2015	■	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Puerto Rico Electric Power Authority and to appear at oral argument. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: Relief selection was incorrect and/or incomplete. Correction made by clerk's office. No further action required. [15-1218, 15-1221, 15-1272, 15-1271] (JRR)
03/16/2015	■	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Professors Clayton P. Gillette and David A. Skeel, Jr.. [15-1218, 15-1221, 15-1272, 15-1271] (GRA)
03/17/2015		APPELLANT'S BRIEF filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants

		Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/24/2015. [15-1218, 15-1221]. CLERK'S NOTE: Docket entry was edited to modify the docket text. [15-1218, 15-1221] (DT)
03/17/2015	■	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Edilberto Berrios Perez, Esq. and to appear at oral argument. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] CLERK'S NOTE: Relief selection was incorrect and/or incomplete. Correction made by clerk's office. No further action required. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	■	AMICUS CURIAE BRIEF tendered by Edilberto Berrios Perez, Esq.. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	■	NOTICE of appearance on behalf of Movant(s) Edilberto Berrios Perez, Esq. filed by Attorney Edilberto Berrios Perez, Esq.. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015		APPENDIX filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Number of

		volumes: 2. Number of copies: 5. Certificate of service dated 03/16/2015. [15-1218, 15-1221]. CLERK'S NOTE: Docket entry was removed from associated case(s), 15-1271 and 15-1272. [15-1218, 15-1221] (KC)
03/17/2015	■	BRIEF tendered by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/17/2015. [15-1218, 15-1221] (CL)
03/17/2015	■	APPELLANT'S BRIEF filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/17/2015. [15-1218, 15-1221] (TS)
03/18/2015	■	CORPORATE disclosure statement filed by Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218, Movant Puerto Rico Electric Power Authority (PREPA) in 15-1221, 15-1271, 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/18/2015		TEN (10) paper copies of appellant/petitioner brief [5893524-2] submitted by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. [15-1218, 15-

		1221] (CC)
03/20/2015	■	NOTICE issued. The following attorneys have failed to register for an appellate ECF account and will no longer receive notice of court issued documents in this case: Eugene F. Assaf for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Susan M. Davies for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Jorge L. Flores-De Jesus for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Michael A. Glick for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Liam P. Hardy for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Jeffrey Powell for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, James H. M. Sprayregen for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Laura R. Dominguez-Llerandi for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio

Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund, Eugene F. Assaf for Melba Acosta-Febo, Susan M. Davies for Melba Acosta-Febo, Alejandro Febres-Jorge for Melba Acosta-Febo, Michael A. Glick for Melba Acosta-Febo, Liam P. Hardy for Melba Acosta-Febo, Jeffrey Powell for Melba Acosta-Febo, James H. M. Sprayregen for Melba Acosta-Febo and Maraliz Vazquez-Marrero for Melba Acosta-Febo in 15-1218, Eugene F. Assaf for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Paul M. Basta for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Susan M. Davies for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Michael A. Glick for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Liam P. Hardy for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, James H. M. Sprayregen

		for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla, Cesar R. Miranda-Rodriguez and John Doe and Maraliz Vazquez-Marrero for John Doe in 15-1221. [15-1218, 15-1221] (TS)
03/20/2015	■	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
03/20/2015	■	ORDER: The unopposed motion of the Edilberto Berrios Perez, Esq., to file an amici curiae brief is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	■	AMICUS CURIAE BRIEF filed by Amicus Curiae Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, and 15-1272 in support of Appellant. Certificate of service dated 03/17/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	■	ORDER entered; The unopposed motion of Clayton P. Gillette and David A. Skeel, Jr., to file an amici curiae brief in support of the

		appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	■	AMICUS CURIAE BRIEF filed by Movants Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	■	ORDER entered: The unopposed motion of the Puerto Rico Electric Power Authority to file an amici curiae brief in support of the appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	■	AMICUS CURIAE BRIEF filed by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	■	LETTER regarding *oral argument* filed by Attorney Philip Bentley for Appellees Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust,

		Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund in 15-1218. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (PB)
03/23/2015	■	Mail returned as undeliverable to Attorney Richard James Cooper for Amicus Curiae Puerto Rico Electric Power Authority (PREPA). Copy of Court Order of Feb. 26, 2015 and Notice of March 5, 2015. Forwarded to Cleary Gottlieb Steen & Hamilton LLP 1 Liberty Plaza New York, NY 10006-0000. [15-1218] (TS)

03/24/2015	■	CASE calendared: Wednesday, 05/06/2015 Boston, MA Panel Courtroom. Designation form due 04/07/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
03/26/2015		NINE (9) paper copies of amicus brief [5894512-2] submitted by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218.15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/26/2015	■	CORPORATE disclosure statement filed by Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina

	Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series in 15-1218. Certificate of service dated 03/26/2015. [15-1218, 15-1271] (PB)
03/27/2015	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amici Curiae Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/30/2015	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amicus Curiae Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/02/2015 ■	Mail returned as undeliverable to Attorney Richard James Cooper for Amicus Curiae Puerto Rico Electric Power Authority (PREPA). Copy of Case Opening Notice. Forwarded to Cleary Gottlieb Steen & Hamilton LLP 1 Liberty Plaza New York, NY 10006-0000. [15-1218] (TS)
04/06/2015 ■	DESIGNATION of attorney presenting oral argument filed by Attorney Thomas Moers Mayer for Appellees Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer

		Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund in 15-1218. Certificate of service dated 04/06/2015. [15-1218, 15-1271] (TMM)
04/07/2015	■	DESIGNATION of attorney presenting oral argument filed by Attorney Christopher Landau for Appellants Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1218, Attorney Christopher Landau for Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 04/07/2015. [15-1218, 15-1221] (CL)
04/07/2015	■	DESIGNATION of attorney presenting oral argument filed by Attorney Edilberto Berrios-Perez for Amicus Curiae Edilberto Berrios-

		Perez in 15-1271, 15-1218, 15-1221, 15-1272. Certificate of service dated 04/06/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
04/07/2015	■	DESIGNATION of attorney presenting oral argument filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/07/2015. [15-1221, 15-1218, 15-1272, 15-1271] (MDM)
04/10/2015	■	NOTICE issued. The following attorneys have failed to register for an appellate ECF account and will no longer receive notice of court issued documents in this case: Virgilio J. Machado Aviles for Puerto Rico Electric Power Authority (PREPA) and Paul M. Basta for Commonwealth of Puerto Rico. [15-1218] (TS)
04/15/2015	■	BRIEF tendered by Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal

		Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series in 15-1218. Certificate of service dated 04/15/2015. [15-1218, 15-1271] (TMM)
04/15/2015	■	NOTICE of appearance on behalf of Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS filed by Attorney Marc E. Kasowitz. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/15/2015	■	MOTION for leave to file amicus curiae brief in support of Appellee filed by Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/15/2015	■	CORPORATE disclosure statement filed by Movant Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
04/15/2015	■	APPELLEE'S BRIEF filed by Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin

		Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series in 15-1218, 15-1271. Certificate of service dated 04/15/2015. Reply brief due 04/29/2015 for APPELLANT Commonwealth of Puerto Rico, Alejandro Garcia-Padilla and Melba Acosta-Febo. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/22/2015. [15-1218, 15-1271] (KC)
04/15/2015	■	AMICUS CURIAE BRIEF tendered by The Chamber of Commerce of the United States of

		America. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/15/2015	■	NOTICE of appearance on behalf of Movant(s) The Chamber of Commerce of the United States of America filed by Attorney William S. Consovoy. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/16/2015	■	CORPORATE disclosure statement filed by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/16/2015	■	AMICUS CURIAE BRIEF filed by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/20/2015	■	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: The motion filed by amicus curiae Edilberto Berrios Perez for leave to participate in oral argument is denied. The motion filed by the Association of Financial Guaranty Insurers ("AFGI") for leave to file an amicus brief in support of plaintiffs-appellees is granted. The motions filed by Puerto Rico Electric Power Authority and

		AFGI for leave to participate in oral argument are allowed and each will be allotted five minutes at oral argument. [15-1218, 15-1221, 15-1272, 15-1271] (CP)
04/20/2015	■	AMICUS CURIAE BRIEF filed by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellee. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/24/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text. (CP)
04/20/2015		NINE (9) paper copies of amicus brief [5900657-2], amicus brief [5894492-2] submitted by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/20/2015		NINE (9) paper copies of appellee/respondent brief [5900441-2] submitted by Appellee Franklin California Tax-Free Trust ET, AL in 15-1218, Appellee Franklin California Tax-Free Trust ET, AL, in 15-1271. [15-1218, 15-1271] (CC)
04/21/2015	■	DESIGNATION of attorney presenting oral argument filed by Attorney Lewis Jeffrey Liman for Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service

		dated 04/21/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LJL)
04/22/2015		NINE (9) paper copies of amicus brief [5900657-2] submitted by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/22/2015	■	DESIGNATION of attorney presenting oral argument filed by Attorney Marc E. Kasowitz for Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/29/2015	■	BRIEF tendered by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 04/29/2015. [15-1218, 15-1221] (CL)
04/30/2015	■	REPLY BRIEF filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 04/29/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 05/04/2015 by Noon. [15-1218, 15-1221] (KC)

05/01/2015		NINE (9) paper copies of reply brief [5903856-2] submitted by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218. 15-1221, [15-1218, 15-1221] (CC)
05/04/2015	■	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 05/04/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
05/04/2015	■	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: Appellees' request to change the order in which they will present oral argument is allowed. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
05/06/2015		CASE argued. Panel: Sandra L. Lynch, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Jeffrey R. Howard, Appellate Judge. Arguing attorneys: Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Thomas Moers Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal

Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Martin J. Bienenstock for Melba Acosta-Febo in 15-1218, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and Matthew D. McGill for BlueMountain Capital Management, LLC in 15-1221, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for Melba Acosta-Febo, Thomas Moers Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund,

		Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1271, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for John Doe, Matthew D. McGill for BlueMountain Capital Management, LLC and Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
06/30/2015	■	CITATION of supplemental authorities

		pursuant to Fed. R. App. P. 28(j) filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 06/30/2015. [15-1218, 15-1221] (CL)
07/02/2015	■	RESPONSE to citation of supplemental authorities pursuant to Fed. R. App. P. 28(j) [5919191-2] filed by Appellee BlueMountain Capital Management, LLC in 15-1221. Certificate of service dated 07/02/2015. [15-1221, 15-1218] (MDM)
07/02/2015	■	RESPONSE to citation of supplemental authorities pursuant to Fed. R. App. P. 28(j) [5919191-2] filed by Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester

		Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series in 15-1218. Certificate of service dated 07/02/2015. [15-1218] CLERK'S NOTE: Document should not have been filed in additional case in 15-1271. Correction made by clerk's office. No further action required. RESPONSE to citation of supplemental authorities pursuant to Fed. R. App. P. 28(j) filed by. [15-1218, 15-1271] (TMM)
07/06/2015	■	OPINION issued by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra L. Lynch, Appellate Judge. Published. [15-1218, 15-1221, 15-1272, 15-1271] (SBT)
07/06/2015	■	JUDGMENT entered by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra L. Lynch, Appellate Judge. 15-1218 Affirmed 15-1221 Affirmed 15-1271 Affirmed 15-1272 Affirmed [15-1218, 15-1221, 15-1272, 15-1271] (SBT)
07/28/2015	■	MANDATE issued. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/24/2015	■	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/21/2015 and assigned case number 15-233.

		[15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the file date. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/31/2015	■	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/31/2015 and assigned case number 15-255. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	■	U.S. SUPREME COURT ORDER entered on 12/04/2015. The petition for a writ of certiorari was granted in Supreme Court Case No. 15-233. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	■	U.S. SUPREME COURT NOTICE: The motion of Fundacion Angel Ramos, Inc., et al. for leave to file a brief as amici curiae is granted. The petition for a writ of certiorari is granted. The petition for a writ of certiorari in No. 15-255 is granted. The cases are consolidated and a total of one hour is allotted for oral argument. Justice Alito took no part in the consideration or decision of this motion and these petitions. [15-1218, 15-1221, 15-1272, 15-1271] (TS)

General Docket
United States Court of Appeals for the First Circuit

Court of Appeals Docket #: 15-1221 **Nature of Suit:** 3950 Constitutionality of State Statutes BlueMountain Capital Management v. Garcia-Padilla, et al **Appeal From:** District Court of Puerto Rico, San Juan **Fee Status:** filing fee paid	**Docketed:** 02/18/2015 **Termed:** 07/06/2015

Case Type Information:
1) civil
2) private
3) constitutional

02/18/2015	☐ ■ 102 pg, 553.09 KB	CIVIL CASE docketed. Notice of appeal (doc. #47) filed by Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez. Docketing Statement and Appearance form due 03/04/2015. [15-1221] (TS)
02/18/2015	☐ ■ 95 pg, 309.2 KB	SUPPLEMENTAL record filed. Docket entries: Doc. Nos. 46, 48, & 49. [15-1221] (TS)
02/18/2015	☐	AMENDED notice of appeal (doc. #49) filed by Appellants Alejandro

		Garcia-Padilla and Cesar R. Miranda-Rodriguez on 02/13/2015. [15-1221] (TS)
02/18/2015	☐ ■ 1 pg, 55.38 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney Scott G. Stewart. Certificate of service dated 02/18/2015. [15-1221] (SGS)
02/18/2015	☐ ■ 1 pg, 28.46 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney Matthew D. McGill. Certificate of service dated 02/18/2015. [15-1221] (MDM)
02/19/2015	☐ ■ 1 pg, 81.59 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney David C. Indiano. [15-1221] (DCI)
02/19/2015	☐ ■ 1 pg, 81.7 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney Jeffrey M. Williams. [15-1221] CLERK'S NOTE: The signature on the document

		does not match the name of the ECF filer under whose login and password the document was filed. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT WITHIN TWO DAYS. [15-1221] (DCI)
02/19/2015	☐ ■ 1 pg, 81.69 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney Leticia Casalduc-Rabell. [15-1221] CLERK'S NOTE: The signature on the document does not match the name of the ECF filer under whose login and password the document was filed. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT WITHIN TWO DAYS. [15-1221] (DCI)
02/19/2015	☐ ■ 2 pg, 56.51 KB	NOTICE of appearance on behalf of Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez filed by Attorney Margarita L. Mercado-Echegaray. Certificate of service dated 02/19/2015.

		[15-1221] (MLM)
02/19/2015	☐ ■ 1 pg, 28.6 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney Theodore B. Olson. Certificate of service dated 02/19/2015. [15-1221] (TBO)
02/19/2015	☐ ■ 1 pg, 81.7 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney Jeffrey M. Williams. [15-1221] (JMW)
02/19/2015	☐ ■ 1 pg, 81.69 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC filed by Attorney Leticia Casalduc-Rabell. [15-1221] (LC)
02/19/2015	☐ ■ 15 pg, 94.2 KB	MOTION to consolidate cases, to expedite *the briefing schedule* filed by Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez. [15-1221] (MLM)
02/20/2015	☐ ■ 7 pg, 101.8 KB	RESPONSE filed by Appellee BlueMountain Capital Management, LLC

		to motion to consolidate cases [5887368-2], motion to expedite [5887368-3]. Certificate of service dated 02/20/2015. [15-1221] (MDM)
02/23/2015	☐ ■ 2 pg, 46.42 KB	NOTICE of appearance on behalf of Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez filed by Attorney Zarel Soto-Acaba. [15-1221] (ZJS)
02/26/2015	☐ ■ 4 pg, 339.44 KB	DOCKETING statement filed by Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez. Certificate of service dated 02/26/2015. [15-1221] (MLM)
02/26/2015	☐ ■ 3 pg, 89.08 KB	ORDER entered by William J. Kayatta , Jr., Appellate Judge: Appeals 15-1218 and 15-1221 are consolidated. Each appellee is permitted to file its own brief of 14,000 words or less. The briefing schedule will be as follows: Appellants' Opening Briefs: **March 16, 2015** Appellees Briefs: **April 15, 2015** Appellants' Reply Briefs:

		April 29, 2015 Any amicus brief will be due on the same date as the main brief of the party supported. Any amicus brief in support of neither party will be due on the day of the appellants' opening briefs. Oral argument is contemplated for the court's May 2015 sitting. [15-1218, 15-1221] (TS)
02/27/2015	☐ ■ 1 pg, 13.67 KB	NOTICE of appearance on behalf of Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez filed by Attorney Christopher Landau. Certificate of service dated 02/27/2015. [15-1221] (CL)
03/05/2015	☐ ■ 2 pg, 66.81 KB	NOTICE issued. ***After 03/19/2015***, the following attorneys will no longer receive notice of court issued documents in this case unless they register for an appellate ECF account: Eugene F. Assaf for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Paul M. Basta for Alejandro Garcia-Padilla and Cesar R.

		Miranda-Rodriguez, Susan M. Davies for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Michael A. Glick for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Liam P. Hardy for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Claire Murray for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, James H. M. Sprayregen for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla, Cesar R. Miranda-Rodriguez and John Doe. [15-1221] (TS)
03/14/2015	☐ ■ 1 pg, 86.45 KB	NOTICE of appearance on behalf of Movant(s) Professors Clayton P. Gillette and David A. Skeel filed by Attorney Gabriel R. Aviles-Aponte. [15-1218, 15-1221, 15-1272, 15-1271] (GRA)
03/16/2015	☐ ■ 1 pg, 25.16 KB	NOTICE of appearance on behalf of Appellants

		Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221 filed by Attorney Claire McCusker Murray. Certificate of service dated 03/16/2015. [15-1218, 15-1221] (CMM)
03/16/2015	☐ ■ 219 pg, 1.18 MB	BRIEF tendered by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/16/2015. [15-1218, 15-1221] (CL)
03/16/2015	☐ ■ 208 pg, 5.71 MB	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: The signature on the document does not match the name of the ECF filer under whose

		login and password the document was filed. The brief should have only been filed in 15-1271 and 15-1272. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT WITHIN TWO DAYS. [15-1218, 15-1221, 15-1272, 15-1271] (JER)
03/16/2015	☐ ■ 48 pg, 436.6 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Puerto Rico Electric Power Authority and to appear at oral argument. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: Relief selection was incorrect and/or incomplete. Correction made by clerk's office. No further action required. [15-1218, 15-1221, 15-1272, 15-1271] (JRR)
03/16/2015	☐ ■ 46 pg, 503.73 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Professors Clayton P. Gillette and David A. Skeel, Jr.. [15-

	1218, 15-1221, 15-1272, 15-1271] (GRA)
03/17/2015 ☐	APPELLANT'S BRIEF filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/24/2015. [15-1218, 15-1221]. CLERK'S NOTE: Docket entry was edited to modify the docket text. [15-1218, 15-1221] (DT)
03/17/2015 ☐ ■ 6 pg, 76.15 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Edilberto Berrios Perez, Esq. and to appear at oral argument. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] CLERK'S NOTE: Relief selection was incorrect

		and/or incomplete. Correction made by clerk's office. No further action required. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 127 pg, 572.35 KB	AMICUS CURIAE BRIEF tendered by Edilberto Berrios Perez, Esq.. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 1 pg, 314.49 KB	NOTICE of appearance on behalf of Movant(s) Edilberto Berrios Perez, Esq. filed by Attorney Edilberto Berrios Perez, Esq. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐	APPENDIX filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Number of volumes: 2. Number of copies: 5. Certificate of service dated

		03/16/2015. [15-1218, 15-1221]. CLERK'S NOTE: Docket entry was removed from associated case(s), 15-1271 and 15-1272. [15-1218, 15-1221] (KC)
03/17/2015	☐ ■ 219 pg, 1.18 MB	BRIEF tendered by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/17/2015. [15-1218, 15-1221] (CL)
03/17/2015	☐ ■ 219 pg, 1.18 MB	APPELLANT'S BRIEF filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 03/17/2015. [15-1218, 15-1221] (TS)
03/17/2015	☐ ■ 3 pg, 86.36 KB	CORPORATE disclosure statement filed by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate

		of service dated 03/17/2015. [15-1221, 15-1272] (MDM)
03/18/2015	☐ ■ 1 pg, 74.85 KB	CORPORATE disclosure statement filed by Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218, Movant Puerto Rico Electric Power Authority (PREPA) in 15-1221, 15-1271, 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/18/2015	☐	TEN (10) paper copies of appellant/petitioner brief [5893524-2] submitted by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. [15-1218, 15-1221] (CC)
03/20/2015	☐ ■ 4 pg, 15.59 KB	NOTICE issued. The following attorneys have failed to register for an appellate ECF account and will no longer receive notice of court issued documents in this case: Eugene F. Assaf for Alejandro Garcia-

Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Susan M. Davies for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Jorge L. Flores-De Jesus for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Michael A. Glick for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Liam P. Hardy for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Jeffrey Powell for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, James H. M. Sprayregen for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla, Commonwealth of Puerto Rico and Melba Acosta-Febo, Laura R. Dominguez-

	Llerandi for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York

Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund, Eugene F. Assaf for Melba Acosta-Febo, Susan M. Davies for Melba Acosta-Febo, Alejandro Febres-Jorge for Melba Acosta-Febo, Michael A. Glick for Melba Acosta-Febo, Liam P. Hardy for Melba Acosta-Febo, Jeffrey Powell for Melba Acosta-Febo, James H. M. Sprayregen for Melba Acosta-Febo and Maraliz Vazquez-Marrero for Melba Acosta-Febo in 15-1218, Eugene F. Assaf for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Paul M. Basta for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Susan M. Davies for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez,

		Michael A. Glick for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Liam P. Hardy for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, James H. M. Sprayregen for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla, Cesar R. Miranda-Rodriguez and John Doe and Maraliz Vazquez-Marrero for John Doe in 15-1221. [15-1218, 15-1221] (TS)
03/20/2015	☐ ■ 1 pg, 118.69 KB	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
03/20/2015	☐ ■ 4 pg, 14.42 KB	ORDER: The unopposed motion of the Edilberto Berrios Perez, Esq., to file an amici curiae brief is

		allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 127 pg, 572.35 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, and 15-1272 in support of Appellant. Certificate of service dated 03/17/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 3 pg, 14.22 KB	ORDER entered; The unopposed motion of Clayton P. Gillette and David A. Skeel, Jr., to file an amici curiae brief in support of the appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)

03/20/2015	☐ ■ 39 pg, 393.04 KB	AMICUS CURIAE BRIEF filed by Movants Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 4 pg, 14.33 KB	ORDER entered: The unopposed motion of the Puerto Rico Electric Power Authority to file an amici curiae brief in support of the appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 35 pg, 275.69 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of service dated 03/16/2015.

		Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 1 pg, 38.45 KB	LETTER regarding *oral argument* filed by Attorney Philip Bentley for Appellees Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund,

		Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund in 15-1218. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (PB)
03/24/2015	☐ ■ 5 pg, 90.6 KB	CASE calendared: Wednesday, 05/06/2015 Boston, MA Panel Courtroom. Designation form due 04/07/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
03/26/2015	☐	NINE (9) paper copies of amicus brief [5894512-2]

		submitted by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218.15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/27/2015	☐	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amici Curiae Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/30/2015	☐	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amicus Curiae Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/07/2015	☐ ■ 1 pg, 43.63 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Christopher Landau for Appellants Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1218, Attorney Christopher Landau for Appellants Alejandro

		Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 04/07/2015. [15-1218, 15-1221] (CL)
04/07/2015	☐ ■ 1 pg, 263.7 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Edilberto Berrios-Perez for Amicus Curiae Edilberto Berrios-Perez in 15-1271, 15-1218, 15-1221, 15-1272. Certificate of service dated 04/06/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
04/07/2015	☐ ■ 1 pg, 92.76 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/07/2015. [15-1221, 15-1218, 15-1272, 15-1271] (MDM)
04/13/2015	☐ ■ 1 pg, 90.04 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272 filed by Attorney Matt J. Williams. Certificate of service dated

		04/13/2015. [15-1221, 15-1272] CLERK'S NOTE: Document should not have been filed in additional cases 15-1218 and 15-1271. Correction made by clerk's office. No further action required. [15-1221, 15-1272] (MJW)
04/15/2015	☐ ■ 1 pg, 13.24 KB	NOTICE of appearance on behalf of Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS filed by Attorney Marc E. Kasowitz. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/15/2015	☐ ■ 52 pg, 595.77 KB	MOTION for leave to file amicus curiae brief in support of Appellee filed by Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/15/2015	☐ ■ 1 pg, 18.03 KB	CORPORATE disclosure statement filed by Movant Association of Financial Guaranty Insurers in 15-

		1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
04/15/2015	☐ ■ 37 pg, 278.45 KB	AMICUS CURIAE BRIEF tendered by The Chamber of Commerce of the United States of America. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/15/2015	☐ ■ 1 pg, 121.07 KB	NOTICE of appearance on behalf of Movant(s) The Chamber of Commerce of the United States of America filed by Attorney William S. Consovoy. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/15/2015	☐ ■ 129 pg, 2.34 MB	BRIEF tendered by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/15/2015. [15-1221, 15-1272] (MDM)
04/16/2015	☐ ■ 129 pg, 2.42 MB	APPELLEE'S BRIEF filed by Appellee BlueMountain

		Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/15/2015. Reply brief due 04/29/2015 for APPELLANT Alejandro Garcia-Padilla, Cesar R. Miranda-Rodriguez and John Doe. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/23/2015. [15-1221, 15-1272] (KC)
04/16/2015	☐ ■ 1 pg, 49.4 KB	CORPORATE disclosure statement filed by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/15/2015. [15-1221, 15-1272] (KC)
04/16/2015	☐ ■ 1 pg, 97.86 KB	CORPORATE disclosure statement filed by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/16/2015	☐ ■	AMICUS CURIAE BRIEF filed by Amicus Curiae

	37 pg, 278.24 KB	Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/17/2015	☐	NINE (9) paper copies of appellee/respondent brief [5900497-2] submitted by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. [15-1221, 15-1272] (CC)
04/20/2015	☐ ■ 3 pg, 89.65 KB	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: The motion filed by amicus curiae Edilberto Berrios Perez for leave to participate in oral argument is denied. The motion filed by the Association of Financial Guaranty Insurers ("AFGI") for leave to file an amicus brief in support of

		plaintiffs-appellees is granted. The motions filed by Puerto Rico Electric Power Authority and AFGI for leave to participate in oral argument are allowed and each will be allotted five minutes at oral argument. [15-1218, 15-1221, 15-1272, 15-1271] (CP)
04/20/2015	☐ ■ 43 pg, 359.73 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellee. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/24/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text. (CP)
04/20/2015	☐	NINE (9) paper copies of amicus brief [5900657-2], amicus brief [5894492-2] submitted by Amicus

		Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/21/2015	☐ ■ 1 pg, 43.51 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Lewis Jeffrey Liman for Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/21/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LJL)
04/22/2015	☐	NINE (9) paper copies of amicus brief [5900657-2] submitted by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/22/2015	☐ ■ 1 pg, 10.28 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Marc E. Kasowitz for Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-

		1272. Certificate of service dated 04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/29/2015	☐ ■ 45 pg, 183.77 KB	BRIEF tendered by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 04/29/2015. [15-1218, 15-1221] (CL)
04/30/2015	☐ ■ 45 pg, 211.05 KB	REPLY BRIEF filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 04/29/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 05/04/2015 by Noon. [15-1218, 15-1221] (KC)

05/01/2015	☐	NINE (9) paper copies of reply brief [5903856-2] submitted by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218. 15-1221, [15-1218, 15-1221] (CC)
05/04/2015	☐ ■ 1 pg, 109.7 KB	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 05/04/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
05/04/2015	☐ ■ 4 pg, 89.49 KB	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: Appellees' request to change the order in which they will present oral argument is allowed. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
05/06/2015	☐	CASE argued. Panel: Sandra L. Lynch, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Jeffrey R. Howard, Appellate Judge. Arguing attorneys: Marc E. Kasowitz for Association of

Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Thomas Moers Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California

	Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Martin J. Bienenstock for Melba Acosta-Febo in 15-1218, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and Matthew D. McGill for BlueMountain Capital Management, LLC in 15-1221, Marc E. Kasowitz for Association of

Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for Melba Acosta-Febo, Thomas Moers Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund,

Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1271, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for John Doe, Matthew D. McGill for BlueMountain Capital Management, LLC and Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-

		Rodriguez in 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
06/04/2015	☐ ■ 3 pg, 80.83 KB	NOTICE filed by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 06/04/2015. [15-1221, 15-1272] CLERK'S NOTE: Document should not have been filed in additional cases: 15-1218 and 15-1271. Correction made by clerk's office. No further action required. [15-1221, 15-1272] (SGS)
06/04/2015	☐ ■ 2 pg, 85.39 KB	ORDER entered: Treating Attorney Scott Grant Stewart's notice as a motion to withdraw as counsel on behalf of Blue Mountain Capital Management, the motion is allowed. [15-1221, 15-1272] (TS)
06/30/2015	☐ ■ 28 pg, 4.52 MB	CITATION of supplemental authorities pursuant to Fed. R. App. P. 28(j) filed by Appellants Commonwealth of Puerto Rico and Alejandro Garcia-Padilla in 15-1218, Appellants Alejandro Garcia-Padilla

		and Cesar R. Miranda-Rodriguez in 15-1221. Certificate of service dated 06/30/2015. [15-1218, 15-1221] (CL)
07/02/2015	☐ ■ 2 pg, 138.91 KB	RESPONSE to citation of supplemental authorities pursuant to Fed. R. App. P. 28(j) [5919191-2] filed by Appellee BlueMountain Capital Management, LLC in 15-1221. Certificate of service dated 07/02/2015. [15-1221, 15-1218] (MDM)
07/06/2015	☐ ■ 75 pg, 146.65 KB	OPINION issued by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra L. Lynch, Appellate Judge. Published. [15-1218, 15-1221, 15-1272, 15-1271] (SBT)
07/06/2015	☐ ■ 1 pg, 7.27 KB	JUDGMENT entered by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra L. Lynch, Appellate Judge. 15-1218 Affirmed 15-1221 Affirmed 15-1271 Affirmed 15-1272 Affirmed [15-1218, 15-1221, 15-1272, 15-1271] (SBT)

07/28/2015	☐ ■ 4 pg, 15.18 KB	MANDATE issued. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/24/2015	☐ ■ 1 pg, 56.19 KB	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/21/2015 and assigned case number 15-233. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the file date. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/31/2015	☐ ■ 1 pg, 55.7 KB	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/31/2015 and assigned case number 15-255. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	☐ ■ 1 pg, 65.29 KB	U.S. SUPREME COURT ORDER entered on 12/04/2015. The petition for a writ of certiorari was granted in Supreme Court Case No. 15-233. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	☐ ■	U.S. SUPREME COURT

1 pg, 80.34 KB	NOTICE: The motion of Fundacion Angel Ramos, Inc., et al. for leave to file a brief as amici curiae is granted. The petition for a writ of certiorari is granted. The petition for a writ of certiorari in No. 15-255 is granted. The cases are consolidated and a total of one hour is allotted for oral argument. Justice Alito took no part in the consideration or decision of this motion and these petitions. [15-1218, 15-1221, 15-1272, 15-1271] (TS)

General Docket
United States Court of Appeals for the First Circuit

Court of Appeals Docket #: 15-1271 **Nature of Suit:** 3950 Constitutionality of State Statutes Franklin California Tax-Free, et al v. Acosta-Febo **Appeal From:** District Court of Puerto Rico, San Juan **Fee Status:** filing fee paid	**Docketed:** 03/03/2015 **Termed:** 07/06/2015
Case Type Information: 1) civil 2) private 3) constitutional	

03/03/2015	☐ ■ 123 pg, 724.42 KB	CIVIL CASE docketed. Notice of appeal (doc. #127) filed by Appellant Melba Acosta-Febo. Docketing Statement and Appearance form due 03/17/2015. [15-1271] (TS)
03/06/2015	☐ ■ 3 pg, 16.04 KB	NOTICE of appearance on behalf of Appellant Melba Acosta-Febo filed by Attorney Mark D. Harris. Certificate of service dated 03/06/2015. [15-1271] (MDH)
03/06/2015	☐ ■ 3 pg, 16.2 KB	NOTICE of appearance on behalf of Appellant Melba Acosta-Febo filed by Attorney John E. Roberts. Certificate of service dated

		03/06/2015. [15-1271] (JER)
03/06/2015	☐ ■ 3 pg, 105.24 KB	NOTICE of appearance on behalf of Appellant Melba Acosta-Febo filed by Attorney Andrea G. Miller. Certificate of service dated 03/06/2015. [15-1271] (AGM)
03/09/2015	☐ ■ 10 pg, 23.01 KB	MOTION to consolidate cases, to expedite *appeals* filed by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/09/2015. [15-1271, 15-1272] (MDH)
03/09/2015	☐ ■ 8 pg, 81.19 KB	DOCKETING statement filed by Appellant Melba Acosta-Febo. Certificate of service dated 03/09/2015. [15-1271] (MDH)
03/11/2015	☐ ■ 3 pg, 88.95 KB	ORDER entered by Juan R. Torruella, Appellate Judge: Appeals 15-1271 and 15-1272 are consolidated with appeals 15-1218 and 15-1221. Each appellee is permitted to file its own brief of 14,000 words or less. The briefing schedule will be as follows: Appellants' Opening Briefs: **March 16,**

		2015 Appellees' Briefs: **April 15, 2015** Appellants' Reply Briefs: **April 29, 2015** Any amicus brief will be due on the same date as the main brief of the party supported. Any amicus brief in support of neither party will be due on the day of the appellants' opening briefs. Oral argument is contemplated for the court's May 2015 sitting. [15-1271, 15-1272] (TS)
03/12/2015	☐ ■ 1 pg, 72.64 KB	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1271 filed by Attorney Jorge R. Roig. Certificate of service dated 03/12/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1271] (JRR)
03/12/2015	☐ ■ 1 pg, 72.74 KB	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power

		Authority (PREPA) in 15-1218, 15-1271 filed by Attorney Joanne A. Tomasini-Muniz. Certificate of service dated 03/12/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1271] (JAT)
03/13/2015	☐ ■ 1 pg, 71.42 KB	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1271 filed by Attorney Lawrence B. Friedman. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1271] (LBF)
03/13/2015	☐ ■ 1 pg, 71.28 KB	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-

		1218 filed by Attorney Lewis J. Liman. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1221, 15-1272, 15-1271] (LJL)
03/13/2015	☐ ■ 1 pg, 71.24 KB	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218 filed by Attorney Sean A. O'Neal. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional cases 15-1221 and 15-1272. Correction made by clerk's office. No further action required. [15-1218, 15-1221, 15-1272, 15-1271] (SAO)
03/13/2015	☐ ■ 1 pg, 71.52 KB	NOTICE of appearance on behalf of Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1271 filed by Attorney

		Richard J. Cooper. Certificate of service dated 03/13/2015. [15-1218, 15-1271] CLERK'S NOTE: Document should not have been filed in additional case. Correction made by clerk's office. No further action required. [15-1218, 15-1271] (RJC)
03/14/2015	☐ ■ 1 pg, 86.45 KB	NOTICE of appearance on behalf of Movant(s) Professors Clayton P. Gillette and David A. Skeel filed by Attorney Gabriel R. Aviles-Aponte. [15-1218, 15-1221, 15-1272, 15-1271] (GRA)
03/16/2015	☐	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Edilberto Berrios Perez. Certificate of service dated 03/16/2015. [15-1271, 15-1272] (EB)
03/16/2015	☐ ■ 127 pg, 563.11 KB	AMICUS CURIAE BRIEF tendered by Edilberto Berrios Perez. Certificate of service dated 03/16/2015. [15-1271, 15-1272] (EB)
03/16/2015	☐ ■ 1 pg, 302.31 KB	NOTICE of appearance filed by Attorney Manuel

Fernandez-Bared for Appellees Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester

		Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund. [15-1271] (TS)
03/16/2015	☐ ■ 2 pg, 77.16 KB	NOTICE of appearance filed by Attorney Thomas Moers Mayer for Appellees Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund,

		Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund. Certificate of service dated 03/16/2015. [15-1271] (TS)
03/16/2015	☐ ■ 3 pg, 16.96 KB	NOTICE of appearance on behalf of Appellant Melba Acosta-Febo filed by Attorney Martin J. Bienenstock. Certificate of service dated 03/16/2015. [15-1271] (MJB)

03/16/2015	☐ ■ 208 pg, 5.71 MB	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: The signature on the document does not match the name of the ECF filer under whose login and password the document was filed. The brief should have only been filed in 15-1271 and 15-1272. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT WITHIN TWO DAYS. [15-1218, 15-1221, 15-1272, 15-1271] (JER)
03/16/2015	☐ ■ 48 pg, 436.6 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Puerto Rico Electric Power Authority and to appear at oral argument. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: Relief selection was incorrect and/or incomplete. Correction made by clerk's

		office. No further action required. [15-1218, 15-1221, 15-1272, 15-1271] (JRR)
03/16/2015	☐ ■ 46 pg, 503.73 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Professors Clayton P. Gillette and David A. Skeel, Jr.. [15-1218, 15-1221, 15-1272, 15-1271] (GRA)
03/17/2015	☐ ■ 208 pg, 5.71 MB	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/17/2015. [15-1271, 15-1272] (MJB)
03/17/2015	☐ ■ 6 pg, 76.15 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Edilberto Berrios Perez, Esq. and to appear at oral argument. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] CLERK'S NOTE: Relief selection was incorrect and/or incomplete. Correction made by clerk's office. No further action required. [15-1271, 15-1218,

		15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 127 pg, 572.35 KB	AMICUS CURIAE BRIEF tendered by Edilberto Berrios Perez, Esq.. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 1 pg, 314.49 KB	NOTICE of appearance on behalf of Movant(s) Edilberto Berrios Perez, Esq. filed by Attorney Edilberto Berrios Perez, Esq. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 208 pg, 5.83 MB	APPELLANT'S BRIEF filed by Appellant Melba Acosta-Febo in 15-1271 and 15-1272. Certificate of service dated 03/17/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/24/2015. [15-1271, 15-1272] (DT)
03/18/2015	☐ ■ 1 pg, 74.85 KB	CORPORATE disclosure statement filed by Not Party Puerto Rico Electric

		Power Authority (PREPA) in 15-1218, Movant Puerto Rico Electric Power Authority (PREPA) in 15-1221, 15-1271, 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/18/2015	☐ ■ 2 pg, 16.28 KB	NOTICE of appearance on behalf of Appellant Melba Acosta-Febo filed by Attorney Sigal P. Mandelker. Certificate of service dated 03/18/2015. [15-1271] (SM)
03/18/2015	☐ ■ 2 pg, 20.66 KB	NOTICE of appearance on behalf of Appellant Melba Acosta-Febo filed by Attorney Philip M. Abelson. Certificate of service dated 03/18/2015. [15-1271] (PA)
03/18/2015	☐ ■ 2 pg, 15.92 KB	NOTICE of appearance on behalf of Appellant Melba Acosta-Febo filed by Attorney Ehud Barak. Certificate of service dated 03/18/2015. [15-1271] (EB)
03/18/2015	☐ ■ 4 pg, 71.44 KB	NOTICE issued. ***After 04/01/2015***, the following attorneys will no longer receive notice of court

issued documents in this case unless they register for an appellate ECF account: Eugene F. Assaf for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Susan M. Davies for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Alejandro Febres-Jorge for Melba Acosta-Febo, Michael A. Glick for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Liam P. Hardy for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Jeffrey Powell for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, James H. M. Sprayregen for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Maraliz Vazquez-Marrero for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth

	of Puerto Rico, Laura R. Dominguez-Llerandi for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester

Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund, Eugene F. Assaf for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Susan M. Davies for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Michael A. Glick for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Liam P. Hardy for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Virgilio J. Machado Aviles for Puerto Rico Electric Power Authority (PREPA), Jeffrey Powell for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, James H. M. Sprayregen for Alejandro Garcia-Padilla and Commonwealth of Puerto

	Rico and Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1271, Maraliz Vazquez-Marrero for John Doe and Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Eugene F. Assaf for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Susan M. Davies for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Michael A. Glick for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Liam P. Hardy for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, James H. M. Sprayregen for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1272. [15-1271, 15-1272] (TS)
03/19/2015 ☐	NINE (9) paper copies of appellant/petitioner brief [5893533-2] submitted by Appellant Melba Acosta-

		Febo in 15-1271, Appellant John Doe in 15-1272. [15-1271, 15-1272] (CC)
03/20/2015	☐ ■ 1 pg, 118.69 KB	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
03/20/2015	☐ ■ 4 pg, 14.42 KB	ORDER: The unopposed motion of the Edilberto Berrios Perez, Esq., to file an amici curiae brief is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 127 pg, 572.35 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, and 15-1272 in support of Appellant. Certificate of service dated 03/17/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or

		before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text.. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 3 pg, 14.22 KB	ORDER entered; The unopposed motion of Clayton P. Gillette and David A. Skeel, Jr., to file an amici curiae brief in support of the appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 39 pg, 393.04 KB	AMICUS CURIAE BRIEF filed by Movants Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)

03/20/2015	☐ ■ 4 pg, 14.33 KB	ORDER entered: The unopposed motion of the Puerto Rico Electric Power Authority to file an amici curiae brief in support of the appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 35 pg, 275.69 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 1 pg, 38.45 KB	LETTER regarding *oral argument* filed by Attorney Philip Bentley for Appellees Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust,

	Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal

		Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund in 15-1218. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (PB)
03/20/2015		APPENDIX filed by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Number of volumes: 2. Number of copies: 5. [15-1271, 15-1272] (TS)
03/24/2015	■ 5 pg, 90.6 KB	CASE calendared: Wednesday, 05/06/2015 Boston, MA Panel Courtroom. Designation form due 04/07/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
03/26/2015		NINE (9) paper copies of amicus brief [5894512-2] submitted by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218.15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)

03/26/2015	☐ ■ 4 pg, 14.6 KB	CORPORATE disclosure statement filed by Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer

		Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series in 15-1218. Certificate of service dated 03/26/2015. [15-1218, 15-1271] (PB)
03/27/2015	☐	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amici Curiae Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/30/2015	☐	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amicus Curiae Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/30/2015	☐ ■	Mail returned as undeliverable to Attorney

	1 pg, 303.8 KB	Richard James Cooper for Amicus Curiae Puerto Rico Electric Power Authority (PREPA). Copy of Order dated 3/11/15. Forwarded to Cleary Gottlieb Steen & Hamilton LLP 1 Liberty Plaza New York, NY 10006-0000. [15-1271] (TS)
04/03/2015	☐ ■ 4 pg, 13.57 KB	NOTICE issued. The following attorneys have failed to register for an appellate ECF account and will no longer receive notice of court issued documents in this case: Virgilio J. Machado Aviles for Puerto Rico Electric Power Authority (PREPA), Eugene F. Assaf for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Susan M. Davies for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Alejandro Febres-Jorge for Melba Acosta-Febo, Michael A. Glick for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Liam P. Hardy for Melba Acosta-

	Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Jeffrey Powell for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, James H. M. Sprayregen for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Maraliz Vazquez-Marrero for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Laura R. Dominguez-Llerandi for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund,

Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund, Eugene F. Assaf for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Susan M. Davies for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Michael A. Glick for

		Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Liam P. Hardy for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Jeffrey Powell for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, James H. M. Sprayregen for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico and Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico. [15-1271] (TS)
04/06/2015	☐ ■ 1 pg, 42.74 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Martin J. Bienenstock for Appellant Melba Acosta-Febo in 15-1271, Attorney Martin J. Bienenstock for Appellant John Doe in 15-1272. Certificate of service dated 04/06/2015. [15-1271, 15-1272] (MJB)
04/06/2015	☐ ■ 3 pg, 133.95 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Thomas Moers Mayer for Appellees Franklin California Tax-

	Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester

		Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund in 15-1218. Certificate of service dated 04/06/2015. [15-1218, 15-1271] (TMM)
04/07/2015	■ 1 pg, 263.7 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Edilberto Berrios-Perez for Amicus Curiae Edilberto Berrios-Perez in 15-1271, 15-1218, 15-1221, 15-1272. Certificate of service dated 04/06/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
04/07/2015	■ 1 pg, 92.76 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/07/2015. [15-1221, 15-1218, 15-1272, 15-1271] (MDM)

04/15/2015	☐ ■ 215 pg, 7.04 MB	BRIEF tendered by Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer

		Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series in 15-1218. Certificate of service dated 04/15/2015. [15-1218, 15-1271] (TMM)
04/15/2015	☐ ■ 1 pg, 13.24 KB	NOTICE of appearance on behalf of Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS filed by Attorney Marc E. Kasowitz. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/15/2015	☐ ■ 52 pg, 595.77 KB	MOTION for leave to file amicus curiae brief in support of Appellee filed by Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS. Certificate of service dated 04/15/2015. [15-1218, 15-

		1221, 15-1272, 15-1271] (MEK)
04/15/2015	☐ ■ 1 pg, 18.03 KB	CORPORATE disclosure statement filed by Movant Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
04/15/2015	☐ ■ 215 pg, 7.13 MB	APPELLEE'S BRIEF filed by Appellees Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester

	Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund and Rochester Portfolio Series in 15-1218, 15-1271. Certificate of service dated 04/15/2015. Reply brief due 04/29/2015 for APPELLANT Commonwealth of Puerto Rico, Alejandro Garcia-Padilla and Melba Acosta-Febo. Nine paper copies identical to that of the electronically filed brief

		must be submitted so that they are received by the court on or before 04/22/2015. [15-1218, 15-1271] (KC)
04/15/2015	☐ ■ 37 pg, 278.45 KB	AMICUS CURIAE BRIEF tendered by The Chamber of Commerce of the United States of America. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/15/2015	☐ ■ 1 pg, 121.07 KB	NOTICE of appearance on behalf of Movant(s) The Chamber of Commerce of the United States of America filed by Attorney William S. Consovoy. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/16/2015	☐ ■ 1 pg, 97.86 KB	CORPORATE disclosure statement filed by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/16/2015	☐ ■	AMICUS CURIAE BRIEF

	37 pg, 278.24 KB	filed by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/20/2015	☐ ■ 3 pg, 89.65 KB	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: The motion filed by amicus curiae Edilberto Berrios Perez for leave to participate in oral argument is denied. The motion filed by the Association of Financial Guaranty Insurers ("AFGI") for leave to file an amicus brief in support of plaintiffs-appellees is granted. The motions filed by Puerto Rico Electric Power Authority and AFGI for leave to participate in oral argument are allowed and each will be allotted five minutes at oral

		argument. [15-1218, 15-1221, 15-1272, 15-1271] (CP)
04/20/2015	☐ ■ 43 pg, 359.73 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellee. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/24/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text. (CP)
04/20/2015	☐	NINE (9) paper copies of amicus brief [5900657-2], amicus brief [5894492-2] submitted by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/20/2015	☐	NINE (9) paper copies of appellee/respondent brief

		[5900441-2] submitted by Appellee Franklin California Tax-Free Trust ET, AL in 15-1218, Appellee Franklin California Tax-Free Trust ET, AL, in 15-1271. [15-1218, 15-1271] (CC)
04/21/2015	☐ ■ 1 pg, 43.51 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Lewis Jeffrey Liman for Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/21/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LJL)
04/22/2015	☐	NINE (9) paper copies of amicus brief [5900657-2] submitted by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/22/2015	☐ ■ 1 pg, 10.28 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Marc E. Kasowitz for Amicus Curiae Association of Financial

		Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/29/2015	☐ ■ 41 pg, 295.29 KB	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 04/29/2015. [15-1271, 15-1272] (MJB)
04/30/2015	☐ ■ 41 pg, 323.78 KB	REPLY BRIEF filed by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 04/29/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 05/04/2015 by Noon. [15-1271, 15-1272] (KC)
05/01/2015	☐	NINE (9) paper copies of reply brief [5903862-2] submitted by Appellant Melba Acosta-Febo in 15-1271. 15-1272 [15-1271, 15-1272] (CC)

05/04/2015	☐ ■ 1 pg, 109.7 KB	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 05/04/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
05/04/2015	☐ ■ 4 pg, 89.49 KB	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: Appellees' request to change the order in which they will present oral argument is allowed. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
05/06/2015	☐	CASE argued. Panel: Sandra L. Lynch, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Jeffrey R. Howard, Appellate Judge. Arguing attorneys: Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of

	Puerto Rico, Thomas Moers Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester

	Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Martin J. Bienenstock for Melba Acosta-Febo in 15-1218, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and Matthew D. McGill for BlueMountain Capital Management, LLC in 15-1221, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for Melba Acosta-Febo, Thomas Moers

	Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York

		Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1271, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for John Doe, Matthew D. McGill for BlueMountain Capital Management, LLC and Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
07/06/2015	☐ ■ 75 pg, 146.65 KB	OPINION issued by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra

		L. Lynch, Appellate Judge. Published. [15-1218, 15-1221, 15-1272, 15-1271] (SBT)
07/06/2015	☐ ■ 1 pg, 7.27 KB	JUDGMENT entered by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra L. Lynch, Appellate Judge. 15-1218 Affirmed 15-1221 Affirmed 15-1271 Affirmed 15-1272 Affirmed [15-1218, 15-1221, 15-1272, 15-1271] (SBT)
07/28/2015	☐ ■ 4 pg, 15.18 KB	MANDATE issued. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/24/2015	☐ ■ 1 pg, 56.19 KB	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/21/2015 and assigned case number 15-233. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the file date. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/31/2015	☐ ■ 1 pg, 55.7 KB	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/31/2015 and

		assigned case number 15-255. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	☐ ■ 1 pg, 65.29 KB	U.S. SUPREME COURT ORDER entered on 12/04/2015. The petition for a writ of certiorari was granted in Supreme Court Case No. 15-233. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	☐ ■ 1 pg, 80.34 KB	U.S. SUPREME COURT NOTICE: The motion of Fundacion Angel Ramos, Inc., et al. for leave to file a brief as amici curiae is granted. The petition for a writ of certiorari is granted. The petition for a writ of certiorari in No. 15-255 is granted. The cases are consolidated and a total of one hour is allotted for oral argument. Justice Alito took no part in the consideration or decision of this motion and these petitions. [15-1218, 15-1221, 15-1272, 15-1271] (TS)

General Docket
United States Court of Appeals for the First Circuit

Court of Appeals Docket #: 15-1272 **Nature of Suit:** 3950 Constitutionality of State Statutes BlueMountain Capital Management v. Doe **Appeal From:** District Court of Puerto Rico, San Juan **Fee Status:** filing fee paid	**Docketed:** 03/03/2015 **Termed:** 07/06/2015

Case Type Information:
1) civil
2) private
3) constitutional

03/03/2015	☐ ■ 98 pg, 662.35 KB	CIVIL CASE docketed. Notice of appeal (doc. #53) filed by Appellant John Doe. Docketing Statement and Appearance form due 03/17/2015. [15-1272] (TS)
03/06/2015	☐ ■ 2 pg, 15.09 KB	NOTICE of appearance on behalf of Appellant John Doe filed by Attorney Mark D. Harris. Certificate of service dated 03/06/2015. [15-1272] (MDH)
03/06/2015	☐ ■ 2 pg, 88.47 KB	NOTICE of appearance on behalf of Appellant John Doe filed by Attorney John E. Roberts. Certificate of service dated 03/06/2015. [15-1272] (JER)

03/06/2015	☐ ■ 2 pg, 88.39 KB	NOTICE of appearance on behalf of Appellant John Doe filed by Attorney Andrea G. Miller. Certificate of service dated 03/06/2015. [15-1272] (AGM)
03/09/2015	☐ ■ 10 pg, 23.01 KB	MOTION to consolidate cases, to expedite *appeals* filed by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/09/2015. [15-1271, 15-1272] (MDH)
03/09/2015	☐ ■ 6 pg, 79.67 KB	DOCKETING statement filed by Appellant John Doe. Certificate of service dated 03/09/2015. [15-1272] (MDH)
03/11/2015	☐ ■ 3 pg, 88.95 KB	ORDER entered by Juan R. Torruella, Appellate Judge: Appeals 15-1271 and 15-1272 are consolidated with appeals 15-1218 and 15-1221. Each appellee is permitted to file its own brief of 14,000 words or less. The briefing schedule will be as follows: Appellants' Opening Briefs: **March 16, 2015** Appellees' Briefs: **April 15, 2015** Appellants'

		Reply Briefs: **April 29, 2015** Any amicus brief will be due on the same date as the main brief of the party supported. Any amicus brief in support of neither party will be due on the day of the appellants' opening briefs. Oral argument is contemplated for the court's May 2015 sitting. [15-1271, 15-1272] (TS)
03/14/2015	☐ ■ 1 pg, 86.45 KB	NOTICE of appearance on behalf of Movant(s) Professors Clayton P. Gillette and David A. Skeel filed by Attorney Gabriel R. Aviles-Aponte. [15-1218, 15-1221, 15-1272, 15-1271] (GRA)
03/16/2015	☐	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Edilberto Berrios Perez. Certificate of service dated 03/16/2015. [15-1271, 15-1272] (EB)
03/16/2015	☐ ■ 127 pg, 563.11 KB	AMICUS CURIAE BRIEF tendered by Edilberto Berrios Perez. Certificate of service dated 03/16/2015. [15-1271, 15-1272] (EB)

03/16/2015	☐ ■ 2 pg, 15.7 KB	NOTICE of appearance on behalf of Appellant John Doe filed by Attorney Martin J. Bienenstock. Certificate of service dated 03/16/2015. [15-1272] (MJB)
03/16/2015	☐ ■ 208 pg, 5.71 MB	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: The signature on the document does not match the name of the ECF filer under whose login and password the document was filed. The brief should have only been filed in 15-1271 and 15-1272. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT WITHIN TWO DAYS. [15-1218, 15-1221, 15-1272, 15-1271] (JER)
03/16/2015	☐ ■ 48 pg, 436.6 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Puerto Rico Electric Power Authority and to appear at oral

		argument. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] CLERK'S NOTE: Relief selection was incorrect and/or incomplete. Correction made by clerk's office. No further action required. [15-1218, 15-1221, 15-1272, 15-1271] (JRR)
03/16/2015	☐ ■ 46 pg, 503.73 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Professors Clayton P. Gillette and David A. Skeel, Jr. [15-1218, 15-1221, 15-1272, 15-1271] (GRA)
03/17/2015	☐ ■ 208 pg, 5.71 MB	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 03/17/2015. [15-1271, 15-1272] (MJB)
03/17/2015	☐ ■ 6 pg, 76.15 KB	MOTION for leave to file amicus curiae brief in support of Appellant filed by Movant(s) Edilberto Berrios Perez, Esq. and to appear at oral argument. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221,

		15-1272] CLERK'S NOTE: Relief selection was incorrect and/or incomplete. Correction made by clerk's office. No further action required. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 127 pg, 572.35 KB	AMICUS CURIAE BRIEF tendered by Edilberto Berrios Perez, Esq. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 1 pg, 314.49 KB	NOTICE of appearance on behalf of Movant(s) Edilberto Berrios Perez, Esq. filed by Attorney Edilberto Berrios Perez, Esq. Certificate of service dated 03/17/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
03/17/2015	☐ ■ 208 pg, 5.83 MB	APPELLANT'S BRIEF filed by Appellant Melba Acosta-Febo in 15-1271 and 15-1272. Certificate of service dated 03/17/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or

		before 03/24/2015. [15-1271, 15-1272] (DT)
03/17/2015	☐ ■ 3 pg, 86.36 KB	CORPORATE disclosure statement filed by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 03/17/2015. [15-1221, 15-1272] (MDM)
03/18/2015	☐ ■ 1 pg, 74.85 KB	CORPORATE disclosure statement filed by Not Party Puerto Rico Electric Power Authority (PREPA) in 15-1218, Movant Puerto Rico Electric Power Authority (PREPA) in 15-1221, 15-1271, 15-1272. Certificate of service dated 03/16/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/18/2015	☐ ■ 2 pg, 15.99 KB	NOTICE of appearance on behalf of Appellant John Doe filed by Attorney Sigal P. Mandelker. Certificate of service dated 03/18/2015. [15-1272] (SM)
03/18/2015	☐ ■ 2 pg, 20.71 KB	NOTICE of appearance on behalf of Appellant John Doe filed by Attorney Philip M. Abelson. Certificate of service dated 03/18/2015. [15-1272] (PA)

03/18/2015	☐ ■ 2 pg, 15.96 KB	NOTICE of appearance on behalf of Appellant John Doe filed by Attorney Ehud Barak. Certificate of service dated 03/18/2015. [15-1272] (EB)
03/18/2015	☐ ■ 4 pg, 71.44 KB	NOTICE issued. ***After 04/01/2015***, the following attorneys will no longer receive notice of court issued documents in this case unless they register for an appellate ECF account: Eugene F. Assaf for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Susan M. Davies for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Alejandro Febres-Jorge for Melba Acosta-Febo, Michael A. Glick for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Liam P. Hardy for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Jeffrey Powell for Melba Acosta-Febo and Alejandro Garcia-

Padilla and Commonwealth of Puerto Rico, James H. M. Sprayregen for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Maraliz Vazquez-Marrero for Melba Acosta-Febo and Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Laura R. Dominguez-Llerandi for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester

	Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund, Eugene F. Assaf for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Susan M. Davies for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Michael A. Glick for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Liam P. Hardy for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Virgilio J.

Machado Aviles for Puerto Rico Electric Power Authority (PREPA), Jeffrey Powell for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, James H. M. Sprayregen for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico and Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1271, Maraliz Vazquez-Marrero for John Doe and Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Eugene F. Assaf for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Susan M. Davies for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Michael A. Glick for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Liam P. Hardy for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, James H. M. Sprayregen for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and

•		Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1272. [15-1271, 15-1272] (TS)
03/19/2015	☐	NINE (9) paper copies of appellant/petitioner brief [5893533-2] submitted by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. [15-1271, 15-1272] (CC)
03/20/2015	☐ ■ 1 pg, 118.69 KB	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
03/20/2015	☐ ■ 4 pg, 14.42 KB	ORDER: The unopposed motion of the Edilberto Berrios Perez, Esq., to file an amici curiae brief is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 127 pg, 572.35	AMICUS CURIAE BRIEF filed by Amicus Curiae

	KB	Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, and 15-1272 in support of Appellant. Certificate of service dated 03/17/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text.. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 3 pg, 14.22 KB	ORDER entered; The unopposed motion of Clayton P. Gillette and David A. Skeel, Jr., to file an amici curiae brief in support of the appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 39 pg, 393.04 KB	AMICUS CURIAE BRIEF filed by Movants Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of

		service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 4 pg, 14.33 KB	ORDER entered: The unopposed motion of the Puerto Rico Electric Power Authority to file an amici curiae brief in support of the appellants is allowed, and the brief is accepted for filing this day. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
03/20/2015	☐ ■ 35 pg, 275.69 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellants. Certificate of service dated 03/16/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 03/27/2015. [15-1218, 15-1221, 15-1272, 15-1271]

		(TS)
03/20/2015	☐ ■ 1 pg, 38.45 KB	LETTER regarding *oral argument* filed by Attorney Philip Bentley for Appellees Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester

		Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund in 15-1218. Certificate of service dated 03/20/2015. [15-1218, 15-1221, 15-1272, 15-1271] (PB)
03/20/2015	☐	APPENDIX filed by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Number of volumes: 2. Number of copies: 5. [15-1271, 15-1272] (TS)
03/24/2015	☐ ■ 5 pg, 90.6 KB	CASE calendared: Wednesday, 05/06/2015 Boston, MA Panel Courtroom. Designation form due 04/07/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
03/26/2015	☐	NINE (9) paper copies of amicus brief [5894512-2]

		submitted by Amicus Curiae Puerto Rico Electric Power Authority (PREPA) in 15-1218.15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/27/2015	☐	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amici Curiae Clayton Gillette and David Skeel in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
03/30/2015	☐	NINE (9) paper copies of amicus brief [5894512-2] submitted by Amicus Curiae Edilberto Berrios-Perez in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/03/2015	☐ ■ 3 pg, 12.33 KB	NOTICE issued. The following attorneys have failed to register for an appellate ECF account and will no longer receive notice of court issued documents in this case: Maraliz Vazquez-Marrero for John Doe and Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Eugene F. Assaf for Alejandro Garcia-Padilla

		and Cesar R. Miranda-Rodriguez, Susan M. Davies for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Michael A. Glick for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, Liam P. Hardy for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez, James H. M. Sprayregen for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and Maraliz Vazquez-Marrero for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez. [15-1272] (TS)
04/06/2015	☐ ■ 1 pg, 42.74 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Martin J. Bienenstock for Appellant Melba Acosta-Febo in 15-1271, Attorney Martin J. Bienenstock for Appellant John Doe in 15-1272. Certificate of service dated 04/06/2015. [15-1271, 15-1272] (MJB)
04/07/2015	☐ ■ 1 pg, 263.7 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Edilberto Berrios-Perez for Amicus

		Curiae Edilberto Berrios-Perez in 15-1271, 15-1218, 15-1221, 15-1272. Certificate of service dated 04/06/2015. [15-1271, 15-1218, 15-1221, 15-1272] (EB)
04/07/2015	☐ ■ 1 pg, 92.76 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/07/2015. [15-1221, 15-1218, 15-1272, 15-1271] (MDM)
04/13/2015	☐ ■ 1 pg, 90.04 KB	NOTICE of appearance on behalf of Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272 filed by Attorney Matt J. Williams. Certificate of service dated 04/13/2015. [15-1221, 15-1272] CLERK'S NOTE: Document should not have been filed in additional cases 15-1218 and 15-1271. Correction made by clerk's office. No further action required. [15-1221, 15-1272] (MJW)

04/15/2015	☐ ■ 1 pg, 13.24 KB	NOTICE of appearance on behalf of Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS filed by Attorney Marc E. Kasowitz. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/15/2015	☐ ■ 52 pg, 595.77 KB	MOTION for leave to file amicus curiae brief in support of Appellee filed by Movant(s) ASSOCIATION OF FINANCIAL GUARANTY INSURERS. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/15/2015	☐ ■ 1 pg, 18.03 KB	CORPORATE disclosure statement filed by Movant Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
04/15/2015	☐ ■ 37 pg, 278.45 KB	AMICUS CURIAE BRIEF tendered by The Chamber of Commerce of the United States of America.

		Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/15/2015	☐ ■ 1 pg, 121.07 KB	NOTICE of appearance on behalf of Movant(s) The Chamber of Commerce of the United States of America filed by Attorney William S. Consovoy. Certificate of service dated 04/15/2015. [15-1218, 15-1221, 15-1272, 15-1271] (WC)
04/15/2015	☐ ■ 129 pg, 2.34 MB	BRIEF tendered by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/15/2015. [15-1221, 15-1272] (MDM)
04/16/2015	☐ ■ 129 pg, 2.42 MB	APPELLEE'S BRIEF filed by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/15/2015. Reply brief due 04/29/2015 for APPELLANT Alejandro Garcia-Padilla, Cesar R. Miranda-Rodriguez and John Doe. Nine paper copies identical to that of the electronically

		filed brief must be submitted so that they are received by the court on or before 04/23/2015. [15-1221, 15-1272] (KC)
04/16/2015	☐ ■ 1 pg, 49.4 KB	CORPORATE disclosure statement filed by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 04/15/2015. [15-1221, 15-1272] (KC)
04/16/2015	☐ ■ 1 pg, 97.86 KB	CORPORATE disclosure statement filed by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/16/2015	☐ ■ 37 pg, 278.24 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before

		04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (AS)
04/17/2015	☐	NINE (9) paper copies of appellee/respondent brief [5900497-2] submitted by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. [15-1221, 15-1272] (CC)
04/20/2015	☐ ■ 3 pg, 89.65 KB	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: The motion filed by amicus curiae Edilberto Berrios Perez for leave to participate in oral argument is denied. The motion filed by the Association of Financial Guaranty Insurers ("AFGI") for leave to file an amicus brief in support of plaintiffs-appellees is granted. The motions filed by Puerto Rico Electric Power Authority and AFGI for leave to participate in oral argument are allowed and each will be allotted five minutes at oral argument. [15-1218, 15-1221, 15-1272, 15-1271] (CP)

04/20/2015	☐ ■ 43 pg, 359.73 KB	AMICUS CURIAE BRIEF filed by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272 in support of Appellee. Certificate of service dated 04/15/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 04/24/2015. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was edited to modify the docket text. (CP)
04/20/2015	☐	NINE (9) paper copies of amicus brief [5900657-2], amicus brief [5894492-2] submitted by Amicus Curiae Chamber of Commerce of the United States of America in 15-1218, 15-1221, 15-1271, 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/21/2015	☐ ■ 1 pg, 43.51 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Lewis Jeffrey Liman for Amicus Curiae Puerto Rico Electric

		Power Authority (PREPA) in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/21/2015. [15-1218, 15-1221, 15-1272, 15-1271] (LJL)
04/22/2015	☐	NINE (9) paper copies of amicus brief [5900657-2] submitted by Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272, [15-1218, 15-1221, 15-1272, 15-1271] (CC)
04/22/2015	☐ ■ 1 pg, 10.28 KB	DESIGNATION of attorney presenting oral argument filed by Attorney Marc E. Kasowitz for Amicus Curiae Association of Financial Guaranty Insurers in 15-1218, 15-1221, 15-1271, 15-1272. Certificate of service dated 04/22/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MEK)
04/29/2015	☐ ■ 41 pg, 295.29 KB	BRIEF tendered by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 04/29/2015. [15-1271, 15-1272] (MJB)

04/30/2015	☐ ■ 41 pg, 323.78 KB	REPLY BRIEF filed by Appellant Melba Acosta-Febo in 15-1271, Appellant John Doe in 15-1272. Certificate of service dated 04/29/2015. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 05/04/2015 by Noon. [15-1271, 15-1272] (KC)
05/01/2015	☐	NINE (9) paper copies of reply brief [5903862-2] submitted by Appellant Melba Acosta-Febo in 15-1271. 15-1272 [15-1271, 15-1272] (CC)
05/04/2015	☐ ■ 1 pg, 109.7 KB	LETTER regarding *oral argument* filed by Attorney Matthew D. McGill for Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 05/04/2015. [15-1218, 15-1221, 15-1272, 15-1271] (MDM)
05/04/2015	☐ ■ 4 pg, 89.49 KB	ORDER entered by Sandra L. Lynch, Chief Appellate Judge: Appellees' request to change the order in which

		they will present oral argument is allowed. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
05/06/2015	☐	CASE argued. Panel: Sandra L. Lynch, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Jeffrey R. Howard, Appellate Judge. Arguing attorneys: Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico, Thomas Moers Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund,

	Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Martin J. Bienenstock for Melba Acosta-Febo in 15-1218, Marc E. Kasowitz for Association of Financial

	Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez and Matthew D. McGill for BlueMountain Capital Management, LLC in 15-1221, Marc E. Kasowitz for Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for Melba Acosta-Febo, Thomas Moers Mayer for Franklin California Tax-Free Trust, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Franklin Municipal Securities Trust, Franklin California Tax-Free Income Fund, Franklin New York Tax-Free Income Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Fund, Oppenheimer Municipal Fund, Oppenheimer Multi-State

Municipal Trust, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, Rochester Portfolio Series, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund and Oppenheimer Rochester Minnesota Municipal Fund and Christopher Landau for Alejandro Garcia-Padilla and Commonwealth of Puerto Rico in 15-1271, Marc E. Kasowitz for

		Association of Financial Guaranty Insurers, Lewis Jeffrey Liman for Puerto Rico Electric Power Authority (PREPA), Martin J. Bienenstock for John Doe, Matthew D. McGill for BlueMountain Capital Management, LLC and Christopher Landau for Alejandro Garcia-Padilla and Cesar R. Miranda-Rodriguez in 15-1272. [15-1218, 15-1221, 15-1272, 15-1271] (LM)
06/04/2015	☐ ■ 3 pg, 80.83 KB	NOTICE filed by Appellee BlueMountain Capital Management, LLC in 15-1221, 15-1272. Certificate of service dated 06/04/2015. [15-1221, 15-1272] CLERK'S NOTE: Document should not have been filed in additional cases: 15-1218 and 15-1271. Correction made by clerk's office. No further action required. [15-1221, 15-1272] (SGS)
06/04/2015	☐ ■ 2 pg, 85.39 KB	ORDER entered: Treating Attorney Scott Grant Stewart's notice as a motion to withdraw as counsel on behalf of Blue Mountain

		Capital Management, the motion is allowed. [15-1221, 15-1272] (TS)
07/06/2015	☐ ■ 75 pg, 146.65 KB	OPINION issued by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra L. Lynch, Appellate Judge. Published. [15-1218, 15-1221, 15-1272, 15-1271] (SBT)
07/06/2015	☐ ■ 1 pg, 7.27 KB	JUDGMENT entered by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Sandra L. Lynch, Appellate Judge. 15-1218 Affirmed 15-1221 Affirmed 15-1271 Affirmed 15-1272 Affirmed [15-1218, 15-1221, 15-1272, 15-1271] (SBT)
07/28/2015	☐ ■ 4 pg, 15.18 KB	MANDATE issued. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/24/2015	☐ ■ 1 pg, 56.19 KB	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/21/2015 and assigned case number 15-233. [15-1218, 15-1221, 15-1272, 15-1271]. CLERK'S NOTE: Docket entry was

		edited to modify the file date. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
08/31/2015	☐ ■ 1 pg, 55.7 KB	U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/31/2015 and assigned case number 15-255. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	☐ ■ 1 pg, 65.29 KB	U.S. SUPREME COURT ORDER entered on 12/04/2015. The petition for a writ of certiorari was granted in Supreme Court Case No. 15-233. [15-1218, 15-1221, 15-1272, 15-1271] (TS)
12/04/2015	☐ ■ 1 pg, 80.34 KB	U.S. SUPREME COURT NOTICE: The motion of Fundacion Angel Ramos, Inc., et al. for leave to file a brief as amici curiae is granted. The petition for a writ of certiorari is granted. The petition for a writ of certiorari in No. 15-255 is granted. The cases are consolidated and a total of one hour is allotted for oral argument. Justice Alito took no part in the consideration or decision of this motion

	and these petitions. [15-1218, 15-1221, 15-1272, 15-1271] (TS)

United States District Court
District of Puerto Rico (San Juan)
CIVIL DOCKET FOR CASE #:
3:14-cv-01518-FAB

Franklin California Tax-Free Trust et al v. Commonwealth of Puerto Rico et al
Assigned to: Judge Francisco A. Besosa
Demand: $9,999,000
Case in other court: 15-01218
15-01271
Cause: 28:1331 Fed. Question

Date Filed: 06/28/2014
Date Terminated: 02/10/2015
Jury Demand: None
Nature of Suit: 950 Constitutional - State Statute
Jurisdiction: Federal Question

Date Filed	#	Docket Text
06/28/2014	1	COMPLAINT against Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE, Puerto Rico Electric Power Authority (Filing fee $400 receipt number 0104-3985123.), filed by Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Franklin Federal Tax-Free Income Fund, Rochester Portfolio Series, Franklin New York Tax-Free Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester California

		Municipal Fund, Franklin New York Tax-Free Income Fund, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Fund Municipals, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free New York Municipal Fund, Franklin California Tax-Free Income Fund. Service due by 10/30/2014, (Attachments: # 1 Civil Cover Sheet, # 2 Category Sheet, # 3 Summons Commonwealth of Puerto Rico, # 4 Summons PREPA, # 5 Summons Governor, # 6 Summons John Doe)(Dominguez-Llerandi, Laura) (Entered: 06/28/2014)
06/29/2014	2	AMENDED COMPLAINT against Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE, Puerto Rico Electric Power Authority, filed by Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Franklin Federal Tax-Free Income Fund, Rochester Portfolio Series, Franklin New York Tax-Free Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer

		Rochester Minnesota Municipal Fund, Oppenheimer Rochester California Municipal Fund, Franklin New York Tax-Free Income Fund, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Fund Municipals, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free New York Municipal Fund, Franklin California Tax-Free Income Fund.(Dominguez-Llerandi, Laura) (Entered: 06/29/2014)
06/30/2014	3	NOTICE OF JUDGE ASSIGNMENT Case has been assigned to Judge Jay A. Garcia-Gregory (jla) (Entered: 06/30/2014)
06/30/2014	4	Summons Issued as to Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, Puerto Rico Electric Power Authority (rc) (Entered: 06/30/2014)
07/01/2014	5	ORDER OF RECUSAL: I hereby disqualify myself from further participation in this case. Judge Jay A. Garcia-Gregory recused. Signed by Judge Jay A. Garcia-Gregory on 7/1/2014.(IL) (Entered: 07/01/2014)
07/01/2014	6	MEMORANDUM OF THE CLERK: Pursuant to the Order of Recusal entered

		by Judge Jay A. Garcia-Gregory on 07/01/2014 (Docket No. 5), this case has been randomly reassigned within the Case Assignment System to Judge Francisco A. Besosa. Signed by Clerk on 07/01/2014.(gr) (Entered: 07/01/2014)
07/07/2014	7	SUMMONS Returned Executed by Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Franklin Federal Tax-Free Income Fund, Rochester Portfolio Series, Franklin New York Tax-Free Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester California Municipal Fund, Franklin New York Tax-Free Income Fund, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Fund Municipals, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free New York Municipal Fund, Franklin California Tax-Free Income Fund upon Alejandro Garcia-Padilla served on 7/1/2014, answer due 7/22/2014.

		(Dominguez-Llerandi, Laura) (Entered: 07/07/2014)
07/07/2014	8	SUMMONS Returned Executed by Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Franklin Federal Tax-Free Income Fund, Rochester Portfolio Series, Franklin New York Tax-Free Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester California Municipal Fund, Franklin New York Tax-Free Income Fund, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Fund Municipals, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free New York Municipal Fund, Franklin California Tax-Free Income Fund upon Commonwealth of Puerto Rico served on 7/1/2014, answer due 7/22/2014. (Dominguez-Llerandi, Laura) (Entered: 07/07/2014)
07/07/201	9	SUMMONS Returned Executed by

4		Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Franklin Federal Tax-Free Income Fund, Rochester Portfolio Series, Franklin New York Tax-Free Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester California Municipal Fund, Franklin New York Tax-Free Income Fund, Franklin Tax-Free Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Fund Municipals, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester Amt-Free New York Municipal Fund, Franklin California Tax-Free Income Fund upon Puerto Rico Electric Power Authority served on 7/1/2014, answer due 7/22/2014. (Dominguez-Llerandi, Laura) (Entered: 07/07/2014)

07/21/2014	10	MOTION to Dismiss for Failure to State a Claim filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Attachments: # 1 Supplement Memorandum of Law in Support of Motion to Dismiss)(Garcia-Marrero, Janitza) (Entered: 07/21/2014)
07/21/2014	11	MOTION for Leave to File Excess Pages filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) (Entered: 07/21/2014)
07/21/2014	12	NOTICE of Appearance by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority (Roig-Colon, Jorge) (Entered: 07/21/2014)
07/21/2014	13	***FILED IN ERROR - INCOMPLETE INFORMATION - COUNSEL ADVISED TO RE-FILE*** NOTICE of Appearance by Joseph G. Feldstein-Del Valle on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Feldstein-Del Valle, Joseph) Modified on 7/24/2014 (re). (Entered: 07/21/2014)
07/21/2014	14	NOTICE of Appearance by Virgilio J. Machado-Aviles on behalf of Puerto Rico Electric Power Authority (Machado-Aviles, Virgilio) (Entered: 07/21/2014)
07/21/2014	15	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** Motion to allow Susan

		Davies to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015299) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/28/2014 (re). (Entered: 07/21/2014)
07/21/2014	16	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Michael Glick to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015399) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	17	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Basta Paul to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015417) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	18	ORDER re 11 Motion for Leave to File Excess Pages: GRANTED. Signed by Judge Francisco A. Besosa on 07/21/2014. (brc) (Entered: 07/21/2014)

07/21/2014	19	***SET ASIDE AS PER COURT (53) ORDER*** - ORDER re 15 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/21/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	20	***SET ASIDE AS PER COURT (53) ORDER*** - ORDER re 16 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/21/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	21	***SET ASIDE AS PER COURT (53) ORDER*** - ORDER re 17 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/21/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	22	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Eugene Assaf to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015489) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered:

		07/21/2014)
07/21/2014	23	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Liam Hardy to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015501) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	24	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Claire Murray to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015513) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	25	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Jeffrey Powell to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015524) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/21/2014)

07/21/2014	26	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow James Sprayregen to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015528) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/7/2014 (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	27	***SET ASIDE AS PER COURT (53) ORDER*** - ORDER 22 Motion to Appear PHV; 23 Motion to Appear PHV; 24 Motion to Appear PHV; 25 Motion to Appear PHV; AND 26 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/21/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	28	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Lawrence Friedman to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015547) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/7/2014 (Roig-Colon, Jorge) Modified on 7/29/2014 (re). (Entered: 07/21/2014)

07/21/2014	29	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Lewis Liman to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015565) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/7/2014 (Roig-Colon, Jorge) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	30	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Sean O'Neal to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015568) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/7/2014 (Roig-Colon, Jorge) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	31	MOTION to Dismiss/Lack of Jurisdiction as to Puerto Rico Electric Power Authority (Suggestions in opposition/response due by 8/7/2014), MOTION to Dismiss for Failure to State a Claim filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority (Roig-Colon, Jorge) (Entered: 07/21/2014)

07/21/2014	32	***SET ASIDE AS PER COURT (53) ORDER*** - ORDER re 28 Motion to Appear PHV; re 29 Motion to Appear PHV; and 30 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/21/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	33	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *Pro Hac Vice of Lawrence B. Friedman* by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority (Roig-Colon, Jorge) Modified on 7/29/2014 (re). Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	34	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** NOTICE of Appearance *Pro Hac Vice of Lewis J. Liman* by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority (Roig-Colon, Jorge) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/21/2014	35	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** NOTICE of Appearance *Pro Hac Vice of Sean A. O'Neal* by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority (Roig-Colon, Jorge) Modified on 7/29/2014 (re). (Entered: 07/21/2014)
07/22/2014	36	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *(Pro Hac Vice of*

		Eugene Assaf) by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	37	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *(PHV for Paul Basta)* by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	38	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *(PHV for Susan Davies)* by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	39	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *(PHV for Michael Glick)* by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	40	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** NOTICE of Appearance *(PHV for Liam Hardy)* by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Garcia-

		Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	41	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *(PHV for Claire Murray)* by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	42	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *(PHV for Jeffrey Powell)* by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	43	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** - NOTICE of Appearance *(PHV for James Sprayregen)* by Janitza M. Garcia-Marrero on behalf of Alejandro Garcia-Padilla (Garcia-Marrero, Janitza) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	44	MOTION for Joinder Re: 31 MOTION to Dismiss/Lack of Jurisdiction as to Puerto Rico Electric Power Authority MOTION to Dismiss for Failure to State a Claim filed by Puerto Rico Electric Power Authority filed by Joseph G. Feldstein-Del Valle on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due

		by 8/8/2014 (Related document(s) 31) (Feldstein-Del Valle, Joseph) (Entered: 07/22/2014)
07/22/2014	45	ORDER re 44 Motion for Joinder: JOINDER IS GRANTED. Signed by Judge Francisco A. Besosa on 07/22/2014. (brc) (Entered: 07/22/2014)
07/22/2014	46	NOTICE of Appearance by Alejandro Febres-Jorge on behalf of JOHN DOE (Febres-Jorge, Alejandro) (Entered: 07/22/2014)
07/23/2014	47	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Jonathan M. Wagner to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4018150) filed by Laura R. Dominguez-Llerandi on behalf of Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund Municipals, Oppenheimer Rochester

		Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer Rochester Virginia Municipal Fund, Rochester Portfolio Series Suggestions in opposition/response due by 8/11/2014 (Dominguez-Llerandi, Laura) Modified on 7/29/2014 (re). (Entered: 07/23/2014)
07/23/2014	48	***SET ASIDE AS PER COURT (53) ORDER*** - ORDER re 47 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/23/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/23/2014)
07/24/2014		NOTICE of Docket Text Modification by Deputy Clerk re: 13 Notice of Appearance: ***FILED IN ERROR - INCOMPLETE INFORMATION - COUNSEL ADVISED TO RE-FILE*** (re) (Entered: 07/24/2014)
07/24/2014	49	NOTICE of Appearance by Joseph G. Feldstein-Del Valle on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Feldstein-Del Valle, Joseph) (Entered: 07/24/2014)
07/25/201	50	***FILED IN ERROR - LACKING PHV

4		COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Richard Cooper to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4020772) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/11/2014 (Roig-Colon, Jorge) Modified on 7/29/2014 (re). (Entered: 07/25/2014)
07/28/2014	51	***SET ASIDE AS PER COURT (53) ORDER*** - ORDER re 50 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/28/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/28/2014)
07/28/2014	52	***FILED IN ERROR - COUNSEL ADVISED NOT TO RE-FILE*** NOTICE of Appearance *Pro Hac Vice of Richard J. Cooper* by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority (Roig-Colon, Jorge) Modified on 7/29/2014 (re). (Entered: 07/28/2014)
07/29/2014	53	ORDER: The orders granting appearance pro hac vice, (docket numbers 51 Order on Motion to Appear PHV, 32 Order on Motion to Appear PHV, 20 Order on Motion to Appear PHV, 19 Order on Motion to Appear PHV, 48 Order on Motion to Appear PHV, 21 Order on Motion to Appear PHV, 27 Order on Motion to Appear PHV), are SET ASIDE

		because the attorney who is requesting admission must sign the application with his or her original signature. New applications will be filed forthwith. Signed by Judge Francisco A. Besosa on 7/29/14. (re) (Entered: 07/29/2014)
07/29/2014	54	Motion to allow Jonathan M. Wagner to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4018150) filed by Laura R. Dominguez-Llerandi on behalf of Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Federal Tax-Free Income Fund, Franklin Municipal Securities Trust, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Oppenheimer Rochester California Municipal Fund, Oppenheimer Rochester Fund Municipals, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester Maryland Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester North Carolina Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Oppenheimer

		Rochester Virginia Municipal Fund, Rochester Portfolio Series Suggestions in opposition/response due by 8/15/2014 (Dominguez-Llerandi, Laura) (Entered: 07/29/2014)
07/29/2014	55	ORDER re 54 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/29/2014. (brc) (Entered: 07/29/2014)
07/29/2014	56	Motion to allow Susan Davies to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015299) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/15/2014 (Garcia-Marrero, Janitza) (Entered: 07/29/2014)
07/29/2014	57	Motion to allow Liam Hardy to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015501) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/15/2014 (Garcia-Marrero, Janitza) (Entered: 07/29/2014)

07/29/2014	58	Motion to allow Jeffrey Powell to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015524) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/15/2014 (Garcia-Marrero, Janitza) (Entered: 07/29/2014)
07/29/2014	59	Motion to allow Eugene Assaf to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015489) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/15/2014 (Garcia-Marrero, Janitza) (Entered: 07/29/2014)
07/29/2014	60	Motion to allow Claire Murray to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015513) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/15/2014 (Garcia-Marrero, Janitza) (Entered: 07/29/2014)
07/29/2014	61	Motion to allow Michael Glick to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015399) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/15/2014 (Garcia-Marrero, Janitza) (Entered:

		07/29/2014)
07/29/2014	62	Motion to allow James Sprayregen to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015528) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 8/15/2014 (Garcia-Marrero, Janitza) (Entered: 07/29/2014)
07/30/2014	63	ORDER re 56 Motion to Appear PHV; re 57 Motion to Appear PHV; re 58 Motion to Appear PHV; re 59 Motion to Appear PHV; re 60 Motion to Appear PHV; re 61 Motion to Appear PHV; and re 62 Motion to Appear PHV: GRANTED. The Clerk will deposit each admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/30/2014. (brc) (Entered: 07/30/2014)
07/30/2014	64	Motion to allow Lawrence Friedman to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015547) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/18/2014 (Roig-Colon, Jorge) (Entered: 07/30/2014)
07/30/2014	65	Motion to allow Lewis Liman to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015565) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/18/2014 (Roig-Colon, Jorge) (Entered: 07/30/2014)

07/31/2014	66	ORDER re 64 Motion to Appear PHV; and re 65 Motion to Appear PHV: GRANTED. The Clerk will deposit each admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/31/2014. (brc) (Entered: 07/31/2014)
07/31/2014	67	NOTICE of Appearance by Jorge L. Flores-De Jesus on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Flores-De Jesus, Jorge) (Entered: 07/31/2014)
08/01/2014	68	Motion to allow Sean O'Neal to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4015568) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/18/2014 (Roig-Colon, Jorge) (Entered: 08/01/2014)
08/01/2014	69	Motion to allow Richard Cooper to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4020772) filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 8/18/2014 (Roig-Colon, Jorge) (Entered: 08/01/2014)
08/04/2014	70	ORDER re 68 Motion to Appear PHV; and re 69 Motion to Appear PHV: GRANTED. The Clerk will deposit each admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 08/04/2014. (brc) (Entered: 08/04/2014)

08/07/2014	71	NOTICE of Appearance by Linette Figueroa-Torres on behalf of All Plaintiffs. (Figueroa-Torres, Linette) Modified on 8/8/2014 re parties names. (re). (Entered: 08/07/2014)
08/07/2014	72	NOTICE of Appearance by Manuel Fernandez-Bared on behalf of All Plaintiffs. (Fernandez-Bared, Manuel) Modified on 8/8/2014 re parties names. (re). (Entered: 08/07/2014)
08/07/2014	73	First MOTION for extension of time until August 11, 2014 to file oppositions to defendants' motions to dismiss or to submit a briefing schedule for the Court's approval filed by Linette Figueroa-Torres on behalf of All Plaintiffs. Suggestions in opposition/response due by 8/25/2014 (Figueroa-Torres, Linette) Modified on 8/8/2014 re parties names. (re). (Entered: 08/07/2014)
08/07/2014	74	ORDER re 73 Motion for extension of time: GRANTED. Opposition to motion deadline due by 8/11/2014. Signed by Judge Francisco A. Besosa on 08/07/2014. (brc) (Entered: 08/07/2014)
08/07/2014	75	NOTICE of Appearance by Maraliz Vazquez-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla (Vazquez-Marrero, Maraliz) (Entered: 08/07/2014)
08/11/2014	76	MOTION for Leave to File Excess Pages filed by Linette Figueroa-Torres on behalf of All Plaintiffs. Suggestions in

		opposition/response due by 8/28/2014 (Figueroa-Torres, Linette) Modified on 8/13/2014 re parties names. (re). (Entered: 08/11/2014)
08/11/2014	77	MOTION for Leave to File Document *Second Amended Complaint* filed by Linette Figueroa-Torres on behalf of All Plaintiffs. Suggestions in opposition/response due by 8/28/2014 (Attachments: # 1 Exhibit 1- Proposed Second Amended Complaint, # 2 Exhibit A-1, # 3 Exhibit A-2, # 4 Exhibit B, # 5 Exhibit 2)(Figueroa-Torres, Linette) Modified on 8/13/2014 re plaintiffs' names. (re). (Entered: 08/11/2014)

08/11/2014	78	Cross MOTION for Summary Judgment filed by Linette Figueroa-Torres on behalf of All Plaintiffs. Suggestions in Opposition to Summary Judgment due by 8/28/2014. (Figueroa-Torres, Linette) Modified on 8/13/2014 re all plaintiffs' names. (re). (Entered: 08/11/2014)
08/11/2014	79	MEMORANDUM in Opposition *to Defendants' Motions to Dismiss and in Support of Plaintiffs' Cross-Motion for Summary Judgment* filed by All Plaintiffs Re: 10 MOTION to Dismiss for Failure to State a Claim filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico, 31 MOTION to Dismiss/Lack of Jurisdiction as to Puerto Rico Electric Power Authority MOTION to Dismiss for Failure to State a Claim filed by Puerto Rico Electric Power Authority. (Figueroa-Torres, Linette) Modified on 8/13/2014 re plaintiffs' names. (re). (Entered: 08/11/2014)
08/11/2014	80	ORDER re 77 Motion for Leave to File. The motion for leave to file a second amended complaint is GRANTED, having been filed within 21 days of service of defendants' motions to dismiss pursuant to Rule 12(b) (Docket Nos. 10 and 31). Fed.R.Civ.P. 15(a)(1)(B). Plaintiffs will file the tendered motion lo later than 8/13/2014. Signed by Judge Francisco A. Besosa on 08/11/2014. (brc) (Entered: 08/11/2014)

08/11/2014	81	DECLARATION of Thomas Moers-Mayer in support of 79 Memorandum in Opposition, 78 Cross MOTION for Summary Judgment filed by All Plaintiffs. (Attachments: # 1 Exhibit 1-A, # 2 Exhibit 1-B, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5, # 7 Exhibit 6, # 8 Exhibit 7, # 9 Exhibit 8, # 10 Exhibit 9, # 11 Exhibit 10, # 12 Exhibit 11, # 13 Exhibit 12, # 14 Exhibit 13, # 15 Exhibit 14, # 16 Exhibit 15, # 17 Exhibit 16) (Figueroa-Torres, Linette) Modified on 8/13/2014 to select correct event or relief, co correct docket title and re plaintiffs' names. (re). (Entered: 08/11/2014)
08/11/2014	82	DECLARATION of Randy Legg re 79 Memorandum in Opposition, 78 Cross MOTION for Summary Judgment by All Plaintiffs. (Figueroa-Torres, Linette) Modified on 8/13/2014 to select correct event or relief, co correct docket title and re plaintiffs' names. (re). (Entered: 08/11/2014)
08/11/2014	83	DECLARATION of Sheila Amoroso re 79 Memorandum in Opposition, 78 Cross MOTION for Summary Judgment by All Plaintiffs. (Figueroa-Torres, Linette) Modified on 8/13/2014 to select correct event or relief, co correct docket title and re plaintiffs' names. (re). (Entered: 08/11/2014)
08/11/2014	84	STATEMENT *of Material Facts in Support of* 78 Cross MOTION for Summary Judgment re: 79

		Memorandum in Opposition, filed by All Plaintiffs. (Figueroa-Torres, Linette) Modified on 8/13/2014 to correct docket title information and re plaintiffs' names. (re). (Entered: 08/11/2014)
08/11/2014	85	AMENDED COMPLAINT against Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE, Puerto Rico Electric Power Authority, filed by All Plaintiffs. (Attachments: # 1 Exhibit A-1, # 2 Exhibit A-2, # 3 Exhibit B)(Figueroa-Torres, Linette) Modified on 8/13/2014 re plaintiffs' names. (re). (Entered: 08/11/2014)
08/12/2014	86	ORDER. **Supplemental motions due by 9/12/2014. Opposition to plaintiffs' cross motion for summary judgment due by 9/12/2014. Plaintiffs may file a reply to defendants' oppositions no later than 10/6/2014. Plaintiffs may file a supplemental opposition to any supplemental motion to dismiss that defendants may file no later than 10/6/2014.** Signed by Judge Francisco A. Besosa on 08/12/2014. (brc) (Entered: 08/12/2014)
08/15/2014	87	MOTION to Consolidate Cases filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE Suggestions in opposition/response due by 9/2/2014 (Garcia-Marrero, Janitza) (Entered: 08/15/2014)
08/18/2014	88	RESPONSE to Motion *to Consolidate* filed by All Plaintiffs Re: 87 MOTION to

		Consolidate Cases filed by Alejandro Garcia-Padilla, JOHN DOE, Commonwealth of Puerto Rico filed by All Plaintiffs. (Figueroa-Torres, Linette) (Entered: 08/18/2014)
08/18/2014	89	ORDER re 87 Motion to Consolidate Cases: DENIED without prejudice. This motion has not been filed in Civil No. 14-1569 (the Blue Mountain case) because the defendants have yet to make an appearance in that case. Once the defendants in the Blue Mountain case make an appearance, and a motion to consolidate is filed in that case, which would allow the plaintiffs to respond, the Court will consider a coordinated briefing schedule and consolidation. Signed by Judge Francisco A. Besosa on 08/18/2014. (brc) (Entered: 08/18/2014)
08/19/2014	90	MOTION to Consolidate Cases filed by Maraliz Vazquez-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 9/5/2014 (Vazquez-Marrero, Maraliz) (Entered: 08/19/2014)
08/20/2014	91	RESPONSE to Motion *to Consolidate* filed by All Plaintiffs Re: 90 MOTION to Consolidate Cases filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico, 87 MOTION to Consolidate Cases filed by Alejandro Garcia-Padilla, JOHN DOE, Commonwealth of Puerto Rico filed by All Plaintiffs. (Figueroa-Torres, Linette) (Entered: 08/20/2014)

08/20/2014	92	CONSOLIDATION ORDER. Civil Action No. 14-1518 and Civil Action No. 14-1569 are ORDERED CONSOLIDATED. **Defendants may file motions to dismiss no later than 9/12/2014. Plaintiffs shall oppose any motion to dismiss no later than 10/6/2014. Defendants may reply to plaintiffs' oppositions no later than 11/4/2014. Defendants in the Franklin California case may reply to the plaintiffs' supplemental opposition no later than 11/4/2014.** Signed by Judge Francisco A. Besosa on 08/20/2014. (brc) (Entered: 08/20/2014)
09/02/2014	93	ORDER re 90 Motion to Consolidate Cases: GRANTED. See Docket No. 92. Signed by Judge Francisco A. Besosa on 09/02/2014. (brc) (Entered: 09/02/2014)
09/12/2014	94	MOTION for Leave to File Excess Pages filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE Suggestions in opposition/response due by 9/29/2014 (Garcia-Marrero, Janitza) (Entered: 09/12/2014)
09/12/2014	95	MOTION to Dismiss for Failure to State a Claim *and in Opposition to Cross-Motion for Summary Judgment* filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE (Attachments: # 1 Supplement Memorandum of Law in Support on Motion to Dismiss, # 2 Supplement

		Response to SMF (Dkt 84))(Garcia-Marrero, Janitza) (Entered: 09/12/2014)
09/12/2014	96	ORDER re 94 Motion for Leave to File Excess Pages: GRANTED. Signed by Judge Francisco A. Besosa on 09/12/2014. (brc) (Entered: 09/12/2014)
09/12/2014	97	MOTION to dismiss *the Second Amended Complaint and Opposition to Plaintiffs' 78 Cross-Motion for Partial Summary Judgment and (79) Memorandum in Opposition* as to Puerto Rico Electric Power Authority filed by Jorge R. Roig-Colon on behalf of Puerto Rico Electric Power Authority Suggestions in opposition/response due by 9/29/2014 (Attachments: # 1 Opposing Statement of Material Facts and Additional Statement of Material Facts, # 2 Affidavit Declaration of Lawrence B. Friedman, # 3 Exhibit 1 - Bloomberg Data, # 4 Exhibit 2 - Reuters Article - PREPA Bonds Trade Higher, # 5 Exhibit 3 - Forbearance Agreement - Part I of II, # 6 Exhibit 3 Forbearance Agreement - Part II of II, # 7 Exhibit 4 16th Supplemental Agreement, # 8 Exhibit 5 - Forbearance Agreement - Citibank, # 9 Exhibit 6 Forbearance Agreement - Scotiabank, # 10 Exhibit 7 - Oppenheimer Website - The Puerto Rico Story, # 11 Exhibit 8 - PREPA Downgrade Report)(Roig-Colon, Jorge) Modified on 9/15/2014 to add docket entry relationship. (re). (Entered: 09/12/2014)

09/15/2014	98	Motion to allow Christopher Landau to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085769) filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/16/2014	99	ORDER re 98 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 09/16/2014. (brc) (Entered: 09/16/2014)
09/26/2014	100	ORDER re 76 Motion for Leave to File Excess Pages: GRANTED. Signed by Judge Francisco A. Besosa on 9/26/14. (re) (Entered: 09/26/2014)
10/06/2014	101	MOTION for Leave to File Excess Pages filed by Linette Figueroa-Torres on behalf of All Plaintiffs Suggestions in opposition/response due by 10/23/2014 (Figueroa-Torres, Linette) (Entered: 10/06/2014)
10/06/2014	102	MEMORANDUM in Opposition *to Defendants' Motions to Dismiss the Second Amended Complaint and in Further Support of Plaintiffs' Cross-Motion for Summary Judgment* filed by All Plaintiffs Re: 97 MOTION to dismiss *the Second Amended Complaint and Opposition to Plaintiffs' Cross-Motion for Partial Summary Judgment* as to Puerto Rico Electric Power Authority filed by

		Puerto Rico Electric Power Authority, 95 MOTION to Dismiss for Failure to State a Claim *and in Opposition to Cross-Motion for Summary Judgment* filed by Alejandro Garcia-Padilla, JOHN DOE, Commonwealth of Puerto Rico filed by All Plaintiffs. (Figueroa-Torres, Linette) (Entered: 10/06/2014)
10/06/2014	103	ORDER re 101 Motion for Leave to File Excess Pages: GRANTED. Signed by Judge Francisco A. Besosa on 10/06/2014. (brc) (Entered: 10/06/2014)
10/06/2014	104	REPLY to Response to Motion *Reply Statement of Material Facts of Plaintiffs Franklin Funds and Oppenheimer Rochester Funds in Support of their Cross-Motion for Summary Judgment* filed by All Plaintiffs Re: 97 MOTION to dismiss *the Second Amended Complaint and Opposition to Plaintiffs' Cross-Motion for Partial Summary Judgment* as to Puerto Rico Electric Power Authority filed by Puerto Rico Electric Power Authority, 95 MOTION to Dismiss for Failure to State a Claim *and in Opposition to Cross-Motion for Summary Judgment* filed by Alejandro Garcia-Padilla, JOHN DOE, Commonwealth of Puerto Rico filed by All Plaintiffs. (Figueroa-Torres, Linette) (Entered: 10/06/2014)
10/23/2014	105	MOTION for extension of time until 11/26/14 to Identify and Serve "John Doe" Defendant filed by Linette Figueroa-Torres on behalf of All

		Plaintiffs Suggestions in opposition/response due by 11/10/2014 (Figueroa-Torres, Linette) (Entered: 10/23/2014)
10/24/2014	106	ORDER re 105 Motion for extension of time: GRANTED. Service of process deadline due by November 26, 2014. Signed by Judge Francisco A. Besosa on 10/24/2014. (brc) (Entered: 10/24/2014)
11/04/2014	107	MOTION for Leave to File Document *Excess Pages* filed by Maraliz Vazquez-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 11/21/2014 (Vazquez-Marrero, Maraliz) (Entered: 11/04/2014)
11/04/2014	108	REPLY to Response to Motion filed by Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE Re: 95 MOTION to Dismiss for Failure to State a Claim *and in Opposition to Cross-Motion for Summary Judgment* filed by Alejandro Garcia-Padilla, JOHN DOE, Commonwealth of Puerto Rico filed by Commonwealth of Puerto Rico, Alejandro Garcia-Padilla, JOHN DOE. (Vazquez-Marrero, Maraliz) (Entered: 11/04/2014)
11/04/2014	109	REPLY to Response to Motion filed by Puerto Rico Electric Power Authority Re: 97 MOTION to dismiss *the Second Amended Complaint and Opposition to Plaintiffs' Cross-Motion for Partial Summary Judgment* as to Puerto Rico Electric Power Authority filed by Puerto Rico Electric Power Authority filed by

		Puerto Rico Electric Power Authority. (Attachments: # 1 Exhibit 1)(Roig-Colon, Jorge) (Entered: 11/04/2014)
11/05/2014	110	ORDER re 107 Motion for Leave to File: GRANTED. Signed by Judge Francisco A. Besosa on 11/05/2014. (brc) (Entered: 11/05/2014)
11/19/2014	111	Joint MOTION to Substitute Party *"John Doe" Defendant by Stipulation* filed by Linette Figueroa-Torres on behalf of All Plaintiffs Suggestions in opposition/response due by 12/8/2014 (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Figueroa-Torres, Linette) (Entered: 11/19/2014)
11/20/2014	112	ORDER re 111 Motion to Substitute Party: NOTED. Signed by Judge Francisco A. Besosa on 11/20/2014. (brc) (Entered: 11/20/2014)
11/21/2014	113	NOTICE of Filing Exhibits Summons for GDB Agent re 111 Joint MOTION to Substitute Party *"John Doe" Defendant by Stipulation* filed by Franklin California Tax-Free Income Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Franklin New York Tax-Free Income Fund, Oppenheimer Rochester Maryland Municipal Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund,

		Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Municipal Fund, Rochester Portfolio Series, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Fund Municipals, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund, 112 Order on Motion to Substitute Party (Figueroa-Torres, Linette) (Entered: 11/21/2014)
11/24/2014	114	Summons Issued as to Melba Acosta (arg) (Entered: 11/24/2014)
11/25/2014	115	MOTION for Oral Argument filed by Linette Figueroa-Torres on behalf of All Plaintiffs Suggestions in opposition/response due by 12/12/2014 (Figueroa-Torres, Linette) (Entered: 11/25/2014)
11/26/2014	116	SUMMONS Returned Executed by All Plaintiffs upon Melba Acosta served on 11/25/2014, answer due 12/16/2014. (Figueroa-Torres, Linette) (Entered: 11/26/2014)
12/02/2014	117	RESPONSE to Motion *for Oral Argument* filed by Puerto Rico Electric Power Authority Re: 115 MOTION for

		Oral Argument filed by Franklin California Tax-Free Income Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Franklin New York Tax-Free Income Fund, Oppenheimer Rochester Maryland Municipal Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Municipal Fund, Rochester Portfolio Series, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Fund Municipals, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund filed by Puerto Rico Electric Power Authority. (Roig-Colon, Jorge) (Entered: 12/02/2014)
12/02/2014	118	RESPONSE to Motion filed by Melba Acosta, Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Re: 115 MOTION for Oral Argument filed by Franklin California Tax-Free Income

		Fund, Oppenheimer Rochester Virginia Municipal Fund, Oppenheimer Rochester Arizona Municipal Fund, Franklin New York Tax-Free Income Fund, Oppenheimer Rochester Maryland Municipal Fund, Franklin Federal Tax-Free Income Fund, Oppenheimer Rochester Minnesota Municipal Fund, Oppenheimer Rochester Amt-Free Municipal Fund, Oppenheimer Rochester Amt-Free New York Municipal Fund, Oppenheimer Rochester Massachusetts Municipal Fund, Oppenheimer Rochester Ohio Municipal Fund, Franklin New York Tax-Free Trust, Franklin Tax-Free Trust, Oppenheimer Rochester Michigan Municipal Fund, Oppenheimer Municipal Fund, Rochester Portfolio Series, Franklin Municipal Securities Trust, Oppenheimer Multi-State Municipal Trust, Oppenheimer Rochester North Carolina Municipal Fund, Franklin California Tax-Free Trust, Oppenheimer Rochester Fund Municipals, Oppenheimer Rochester Limited Term California Municipal Fund, Oppenheimer Rochester California Municipal Fund filed by Melba Acosta, Commonwealth of Puerto Rico, Alejandro Garcia-Padilla. (Garcia-Marrero, Janitza) (Entered: 12/02/2014)
02/06/2015	119	OPINION AND ORDER re 95 Motion to Dismiss, 97 Motion to Dismiss, 78 Motion for summary judgment. The Court GRANTS in part and DENIES in part the Commonwealth defendants' motion to dismiss, Docket No. 95. The

		motion is DENIED as to plaintiffs' preemption and Contract Clause claims; GRANTED as to plaintiffs' stay of federal court proceedings claim; DENIED as to plaintiffs' Takings Clause claim based on their contractual right to seek the appointment of a receiver; and GRANTED as to plaintiffs' Takings Clause claim based on their lien on PREPA revenues. The stay of federal court proceedings claim and Takings Clause claim based on plaintiffs' lien on PREPA revenues are DISMISSED WITHOUT PREJUDICE. PREPA's motion to dismiss, Docket No. 97, is GRANTED as to all claims to the extent that they are asserted against PREPA. PREPA is DISMISSED from this case because plaintiffs lack standing against it. Plaintiffs' motion for summary judgment, Docket No. 78, is GRANTED as to plaintiffs' preemption claim and DENIED as to plaintiffs' stay of federal court proceedings claim. The Recovery Act is preempted by the federal Bankruptcy Code and is therefore void pursuant to the Supremacy Clause of the United States Constitution. Signed by Judge Francisco A. Besosa on 02/06/2015. (RRS) (Entered: 02/06/2015)
02/09/2015	120	ORDER re 10 Motion to Dismiss for Failure to State a Claim: MOOT. See Docket No. 95. Signed by Judge Francisco A. Besosa on 02/09/2015. (brc) (Entered: 02/09/2015)
02/09/201	12	ORDER re 31 Motion to Dismiss for Lack

5	1	of Jurisdiction and Motion to Dismiss for Failure to State a Claim: MOOT. See Docket No. 97. Signed by Judge Francisco A. Besosa on 02/09/2015. (brc) (Entered: 02/09/2015)
02/10/2015	122	NOTICE OF APPEAL as to 119 Order on Motion for Summary Judgment, Order on Motion to Dismiss for Failure to State a Claim by Commonwealth of Puerto Rico, Alejandro Garcia-Padilla. Filing fee $505, receipt number 0104-4264708. **NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/efiling.htm** (Garcia-Marrero, Janitza) (Entered: 02/10/2015)
02/10/2015	123	JUDGMENT is entered in accordance with 119 Opinion & Order and closing the case for statistical purposes. Signed by Judge Francisco A. Besosa on 2/10/2015.(ni) (Entered: 02/10/2015)
02/13/2015	124	Amended NOTICE OF APPEAL as to 123 Judgment, 119 Order on Motion for Summary Judgment, Order on Motion to Dismiss for Failure to State a Claim, by Commonwealth of Puerto Rico, Alejandro Garcia-Padilla.

		NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/efiling.htm (Garcia-Marrero, Janitza) Modified on 2/17/2015 re unnecessary characters. (re). (Entered: 02/13/2015)
02/18/2015	125	Certified and Transmitted Record on Appeal to US Court of Appeals re 124 Amended Notice of Appeal, 122 Notice of Appeal, [Docket Entries 119, 122, 123 & 124] (xi) (Entered: 02/18/2015)
02/18/2015	126	USCA Case Number 15-1218 for 124 Amended Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico, 122 Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico. (xi) (Entered: 02/18/2015)
02/19/2015	127	NOTICE OF APPEAL as to 123 Judgment, 119 Opinion and Order on Motion for Summary Judgment, Order on Motion to Dismiss for Failure to State a Claim, by Melba Acosta. Filing fee $505, receipt number 0104-4275465. **NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at**

		http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/efiling.htm (Febres-Jorge, Alejandro) Modified on 2/20/2015 re unnecessary characters created by the system. (re). Modified on 3/2/2015 to add text (xi). (Entered: 02/19/2015)
02/19/2015	128	Motion to allow Sigal Mandelker to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4275514) filed by Alejandro Febres-Jorge on behalf of Melba Acosta Suggestions in opposition/response due by 3/9/2015 (Febres-Jorge, Alejandro) (Entered: 02/19/2015)
02/19/2015	129	Motion to allow Martin Bienenstock to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4275530) filed by Alejandro Febres-Jorge on behalf of Melba Acosta Suggestions in opposition/response due by 3/9/2015 (Febres-Jorge, Alejandro) (Entered: 02/19/2015)
02/19/2015	130	Motion to allow Mark Harris to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4275547) filed by Alejandro Febres-Jorge on behalf of Melba Acosta Suggestions in opposition/response due by 3/9/2015 (Febres-Jorge, Alejandro) (Entered: 02/19/2015)

02/19/2015	131	ORDER re 128 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 02/19/2015. (brc) (Entered: 02/19/2015)
02/19/2015	132	ORDER re 129 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 02/19/2015. (brc) (Entered: 02/19/2015)
02/20/2015	133	ORDER re 130 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 02/20/2015. (brc) (Entered: 02/20/2015)
03/02/2015	134	Certified and Transmitted Record on Appeal to US Court of Appeals re 127 Notice of Appeal, [Docket Entries 119, 123 & 127] (xi) (Entered: 03/02/2015)
03/02/2015	135	USCA Case Number 15-1271 for 127 Notice of Appeal, filed by Melba Acosta. (xi) (Entered: 03/02/2015)
07/06/2015	136	MOTION to Withdraw Attorney as to Janitza M. Garcia-Marrero filed by Janitza M. Garcia-Marrero on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in opposition/response due by 7/23/2015 (Garcia-Marrero, Janitza) (Entered: 07/06/2015)

07/07/2015	137	Printed Opinion of USCA dated 07/06/15 as to 127 Notice of Appeal, filed by Melba Acosta, 124 Amended Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico, 122 Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico. (xi) (Entered: 07/07/2015)
07/07/2015	138	USCA JUDGMENT as to 127 Notice of Appeal, filed by Melba Acosta, 124 Amended Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico, 122 Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico; AFFIRMED. (xi) (Entered: 07/07/2015)
07/07/2015	139	ORDER re 136 Motion to Withdraw as Attorney: GRANTED. Signed by Judge Francisco A. Besosa on 07/07/2015. (brc) (Entered: 07/07/2015)
07/29/2015	140	MANDATE of USCA as to 127 Notice of Appeal, filed by Melba Acosta, 124 Amended Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico, 122 Notice of Appeal, filed by Alejandro Garcia-Padilla, Commonwealth of Puerto Rico; AFFIRMED. RE: 138 USCA JUDGMENT. (xi) (Entered: 07/29/2015)
09/28/2015	141	MOTION to Withdraw Attorney as to Joseph G. Feldstein-Del Valle filed by Joseph G. Feldstein-Del Valle on behalf of Commonwealth of Puerto Rico, Alejandro Garcia-Padilla Suggestions in

		opposition/response due by 10/16/2015 (Feldstein-Del Valle, Joseph) (Entered: 09/28/2015)
10/02/2015	142	ORDER re 141 Motion to Withdraw as Attorney: GRANTED. Wandymar Burgos-Vargas is now the attorney of record. Signed by Judge Francisco A. Besosa on 10/02/2015. (brc) (Entered: 10/02/2015)

United States District Court
District of Puerto Rico (San Juan)
CIVIL DOCKET FOR CASE #: 3:14-cv-01569-FAB

BlueMountain Capital Management, LLC v. Garcia-Padilla, et al
Assigned to:
Judge Francisco A. Besosa
Case in other court: 15-01221
15-01272
Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 07/22/2014
Jury Demand: None
Nature of Suit: 950 Constitutional - State Statute
Jurisdiction: Federal Question

Date Filed	#	Docket Text
07/22/2014	1	COMPLAINT *for Declaratory and Injunctive Relief* against John Doe, Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez (Filing fee $400 receipt number 0104-4016603.), filed by BlueMountain Capital Management, LLC. Service due by 11/24/2014, (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Category Sheet, # 4 Civil Cover Sheet, # 5 Summons Garcia-Padilla, # 6 Summons Miranda-Rodriguez, # 7 Summons John Doe, official capacity GDB)(Indiano-Vicic, David) Modified on 7/28/2014 to delete party text. (re). (Entered: 07/22/2014)

07/22/2014	2	MOTION for Leave to Appear filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/8/2014 (Casalduc-Rabell, Leticia) (Entered: 07/22/2014)
07/22/2014	3	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Matthew J. Williams to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4016800) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/8/2014 (Casalduc-Rabell, Leticia) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	4	Motion to allow Theodore B. Olson to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4016814) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/8/2014 (Casalduc-Rabell, Leticia) (Entered: 07/22/2014)
07/22/2014	5	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow

		Scott G. Stewart to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4016822) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/8/2014 (Casalduc-Rabell, Leticia) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	6	MOTION for Leave to Appear filed by Jeffrey M. Williams-English on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/8/2014 (Williams-English, Jeffrey) (Entered: 07/22/2014)
07/22/2014	7	***FILED IN ERROR - LACKING PHV COUNSEL'S ORIGINAL SIGNATURE*** - Motion to allow Matthew D. McGill to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4017040) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/8/2014 (Casalduc-Rabell, Leticia) Modified on 7/29/2014 (re). (Entered: 07/22/2014)
07/22/2014	8	MEMORANDUM OF THE CLERK: Pursuant to the Court's

		administrative policy to promote judicial economy, in view of the fact that the claims presented in this case are related to those already under consideration in Civil No. 14-1518 (FAB), this case has been directly assigned to the docket of Judge Francisco A. Besosa. Signed by Clerk on 07/22/2014. (Entered: 07/22/2014)
07/23/2014	9	Summons Issued as to Alejandro J. Garcia-Padilla, in his official capacity as Governor of the Commonwealth of Puerto Rico, Cesar R. Miranda-Rodriguez, in his official capacity as Secretary of Justice of the Commonwealth of Puerto Rico (rc) (Entered: 07/23/2014)
07/23/2014	10	ORDER re 2 Motion for Leave to Appear: NOTED. Signed by Judge Francisco A. Besosa on 07/23/2014. (brc) (Entered: 07/23/2014)
07/23/2014	11	***SET ASIDE AS PER COURT (13) ORDER*** - ORDER re 3 Motion to Appear PHV; 4 Motion to Appear PHV; 5 Motion to Appear PHV; and re 7 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/23/2014. (brc) Modified on 7/29/2014 (re). (Entered: 07/23/2014)

07/23/2014	12	ORDER re 6 Motion for Leave to Appear: NOTED. Signed by Judge Francisco A. Besosa on 07/23/2014. (brc) (Entered: 07/23/2014)
07/29/2014	13	ORDER: The order granting appearance pro hac vice, (docket number (11) Order on Motion to Appear PHV), is SET ASIDE because the attorney who is requesting admission must sign the application with his or her original signature. New applications will be filed forthwith. Signed by Judge Francisco A. Besosa on 7/29/14. (re) (Entered: 07/29/2014)
07/30/2014	14	Motion to allow Matthew D. McGill to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4017040) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/18/2014 (Casalduc-Rabell, Leticia) (Entered: 07/30/2014)
07/30/2014	15	Motion to allow Matthew J. Williams to appear pro hac vice (Pro Hac fee $150 receipt number 0104-6800) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/18/2014 (Casalduc-Rabell, Leticia) (Entered:

		07/30/2014)
07/30/2014	16	Motion to allow Scott G. Stewart to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4016822) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/18/2014 (Casalduc-Rabell, Leticia) (Entered: 07/30/2014)
07/30/2014	17	Motion to allow Theodore B. Olson to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4016814) filed by Leticia Casalduc-Rabell on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 8/18/2014 (Casalduc-Rabell, Leticia) (Entered: 07/30/2014)
07/30/2014	18	ORDER re 14 Motion to Appear PHV; re 15 Motion to Appear PHV; re 16 Motion to Appear PHV; and re 17 Motion to Appear PHV: GRANTED. The Clerk will deposit each admission fee in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 07/30/2014. (brc) (Entered: 07/30/2014)
08/11/2014	19	SUMMONS Returned Executed by BlueMountain Capital Management, LLC upon Alejandro J. Garcia-Padilla

		served on 8/1/2014, answer due 8/22/2014; Cesar R. Miranda-Rodriguez served on 8/1/2014, answer due 8/22/2014. (Casalduc-Rabell, Leticia) (Entered: 08/11/2014)
08/12/2014	20	AMENDED COMPLAINT against Alejandro J. Garcia-Padilla, John Doe, Cesar R. Miranda-Rodriguez, filed by BlueMountain Capital Management, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Indiano-Vicic, David) (Entered: 08/12/2014)
08/12/2014	21	NOTICE of Filing Exhibits Summons two defendants re 20 Amended Complaint filed by BlueMountain Capital Management, LLC (Attachments: # 1 Summons) (Indiano-Vicic, David) (Entered: 08/12/2014)
08/14/2014	22	Summons Issued as to Alejandro J. Garcia-Padilla and Cesar R. Miranda-Rodriguez. (le) (Entered: 08/14/2014)
08/19/2014	23	NOTICE of Appearance by Maraliz Vazquez-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez (Vazquez-Marrero, Maraliz) (Entered: 08/19/2014)
08/19/2014	24	MOTION to Consolidate Cases filed by Maraliz Vazquez-Marrero on

		behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 9/5/2014 (Vazquez-Marrero, Maraliz) (Entered: 08/19/2014)
08/19/2014	25	NOTICE of Appearance by Joseph G. Feldstein-Del Valle on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez (Feldstein-Del Valle, Joseph) (Entered: 08/19/2014)
08/20/2014	26	ORDER. Civil Action No. 14-1518 and Civil Action No. 14-1569 are ORDERED CONSOLIDATED. **Defendants may file motions to dismiss no later than 9/12/2014. Plaintiffs shall oppose any motion to dismiss no later than 10/6/2014. Defendants may reply to plaintiffs' oppositions no later than 11/4/2014. Defendants in the Franklin California case may reply to the plaintiffs' supplemental opposition no later than 11/4/2014.** Signed by Judge Francisco A. Besosa on 08/20/2014. (brc) (Entered: 08/20/2014)
09/02/2014	27	ORDER re 24 Motion to Consolidate Cases: GRANTED. See Docket No. 26. Signed by Judge Francisco A. Besosa on 09/02/2014. (brc) (Entered: 09/02/2014)
09/12/201	28	MOTION for Leave to File Excess

4		Pages filed by Maraliz Vazquez-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 9/29/2014 (Vazquez-Marrero, Maraliz) (Entered: 09/12/2014)
09/12/2014	29	MOTION to dismiss as to Cesar R. Miranda-Rodriguez, Alejandro J. Garcia-Padilla filed by Maraliz Vazquez-Marrero on behalf of Cesar R. Miranda-Rodriguez, Alejandro J. Garcia-Padilla Suggestions in opposition/response due by 9/29/2014 (Attachments: # 1 Supplement Memorandum of Law in Support of Motion to Dismiss)(Vazquez-Marrero, Maraliz) (Entered: 09/12/2014)
09/12/2014	30	ORDER re 28 Motion for Leave to File Excess Pages: GRANTED. Signed by Judge Francisco A. Besosa on 09/12/2014. (brc) (Entered: 09/12/2014)
09/15/2014	31	Motion to allow James Sprayregen to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085752) filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)

09/15/2014	32	Motion to allow Eugene Assaf to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085753) filed by Janitza M. Garcia-Marrero on behalf of Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/15/2014	33	Motion to allow Paul Basta to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085760) filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/15/2014	34	Motion to allow Liam Hardy to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085761) filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/15/2014	35	Motion to allow Michael Glick to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085763) filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez

		Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/15/2014	36	Motion to allow Susan Davies to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085764) filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/15/2014	37	Motion to allow Landau Christopher to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085765) filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/15/2014	38	Motion to allow Claire Murray to appear pro hac vice (Pro Hac fee $150 receipt number 0104-4085767) filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/2/2014 (Garcia-Marrero, Janitza) (Entered: 09/15/2014)
09/16/2014	39	ORDER re 31 Motion to Appear PHV; re 32 Motion to Appear PHV; re 33

		Motion to Appear PHV; re 34 Motion to Appear PHV; re 35 Motion to Appear PHV; re 36 Motion to Appear PHV; re 37 Motion to Appear PHV; and re 38 Motion to Appear PHV: GRANTED. The Clerk will deposit the admission fees in the Court's non-appropriated funds account. Signed by Judge Francisco A. Besosa on 09/16/2014. (brc) (Entered: 09/16/2014)
10/06/2014	40	MOTION for Leave to File Excess Pages *in Opposition to Defendants' Motion to Dismiss* filed by David C. Indiano-Vicic on behalf of All Plaintiffs Suggestions in opposition/response due by 10/23/2014 (Indiano-Vicic, David) (Entered: 10/06/2014)
10/06/2014	41	RESPONSE in Opposition to Motion *to Dismiss* filed by BlueMountain Capital Management, LLC Re: 29 MOTION to dismiss as to Cesar R. Miranda-Rodriguez, Alejandro J. Garcia-Padilla filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez filed by BlueMountain Capital Management, LLC. (Indiano-Vicic, David) (Entered: 10/06/2014)
10/07/2014	42	ORDER re 40 Motion for Leave to File Excess Pages: GRANTED. Signed by Judge Francisco A. Besosa

		on 10/07/2014. (brc) (Entered: 10/07/2014)
11/04/2014	43	MOTION for Leave to File Excess Pages filed by Maraliz Vazquez-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 11/21/2014 (Vazquez-Marrero, Maraliz) (Entered: 11/04/2014)
11/04/2014	44	REPLY to Response to Motion filed by Alejandro J. Garcia-Padilla, John Doe, Cesar R. Miranda-Rodriguez Re: 29 MOTION to dismiss as to Cesar R. Miranda-Rodriguez, Alejandro J. Garcia-Padilla filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez filed by Alejandro J. Garcia-Padilla, John Doe, Cesar R. Miranda-Rodriguez. (Vazquez-Marrero, Maraliz) (Entered: 11/04/2014)
11/05/2014	45	ORDER re 43 Motion for Leave to File Excess Pages: GRANTED. Signed by Judge Francisco A. Besosa on 11/05/2014. (brc) (Entered: 11/05/2014)
02/06/2015	46	OPINION AND ORDER re 29 Motion to Dismiss. The Court GRANTS in part and DENIES in part the Commonwealth defendants' motion to dismiss, Docket No. 29. The motion is

		GRANTED as to plaintiff's stay of federal court proceedings claim and DENIED as to plaintiff's preemption and contract clauses claims. The stay of federal court proceedings claim is DISMISSED WITHOUT PREJUDICE. Signed by Judge Francisco A. Besosa on 02/06/2015. (RRS) (Entered: 02/06/2015)
02/10/2015	47	NOTICE OF APPEAL as to 46 Order on Motion to Dismiss, by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez. Filing fee $505, receipt number 0104-4264722. **NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/efiling.htm** (Garcia-Marrero, Janitza) (Entered: 02/10/2015)
02/10/2015	48	JUDGMENT is entered in accordance with 46 Opinion & Order. Signed by Judge Francisco A. Besosa on 2/10/2015.(ni) (Entered: 02/10/2015)

02/13/2015	49	Amended NOTICE OF APPEAL as to 46 Opinion and Order on Motion to Dismiss, 48 Judgment by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez. **NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/efiling.htm** (Garcia-Marrero, Janitza) Modified on 3/2/2015 to add text (xi). (Entered: 02/13/2015)
02/18/2015	50	Certified and Transmitted Record on Appeal to US Court of Appeals re 49 Amended Notice of Appeal, 47 Notice of Appeal, [Docket Entries 46, 47, 48 & 49] (xi) (Entered: 02/18/2015)
02/18/2015	51	USCA Case Number 15-1221 for 49 Amended Notice of Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez, 47 Notice of Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez. (xi) (Entered: 02/18/2015)

02/19/2015	52	NOTICE of Appearance by Alejandro Febres-Jorge on behalf of John Doe (Febres-Jorge, Alejandro) (Entered: 02/19/2015)
02/19/2015	53	NOTICE OF APPEAL as to 46 Order on Motion to Dismiss, 48 Judgment by John Doe. Filing fee $505, receipt number 0104-4276507. **NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/filing.htm** (Febres-Jorge, Alejandro) (Entered: 02/19/2015)
03/02/2015	54	Certified and Transmitted Record on Appeal to US Court of Appeals re 53 Notice of Appeal, [Docket Entries 46, 48 & 53] (xi) (Entered: 03/02/2015)
03/02/2015	55	USCA Case Number 15-1272 for 53 Notice of Appeal, filed by John Doe. (xi) (Entered: 03/02/2015)
06/05/2015	56	MOTION to Withdraw *Scott Stewart as* Attorney as to David C. Indiano-Vicic filed by David C. Indiano-Vicic

		on behalf of BlueMountain Capital Management, LLC Suggestions in opposition/response due by 6/22/2015 (Indiano-Vicic, David) (Entered: 06/05/2015)
06/05/2015	57	ORDER re 56 Motion to Withdraw as Attorney: GRANTED. Signed by Judge Francisco A. Besosa on 06/05/2015. (brc) (Entered: 06/05/2015)
07/06/2015	58	MOTION to Withdraw Attorney as to Janitza M. Garcia-Marrero filed by Janitza M. Garcia-Marrero on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 7/23/2015 (Garcia-Marrero, Janitza) (Entered: 07/06/2015)
07/07/2015	59	Printed Opinion of USCA dated 07/06/15 as to 53 Notice of Appeal, filed by John Doe, 49 Amended Notice of Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez, 47 Notice of Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez. (xi) (Entered: 07/07/2015)
07/07/2015	60	USCA JUDGMENT as to 53 Notice of Appeal, filed by John Doe, 49 Amended Notice of Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez, 47 Notice of

		Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez; AFFIRMED. (xi) (Entered: 07/07/2015)
07/07/2015	61	ORDER re 58 Motion to Withdraw as Attorney: GRANTED. Signed by Judge Francisco A. Besosa on 07/07/2015. (brc) (Entered: 07/07/2015)
07/07/2015	62	ORDER re 59 USCA Opinion. The Clerk will enter judgment permanently enjoining defendants Governor Alejandro Garcia-Padilla, Attorney General Cesar Miranda-Rodriguez, Melba Acosta-Febo, as agent of the Government Development Bank for Puerto Rico, and their successors and assigns from enforcing the Recovery Act. Signed by Judge Francisco A. Besosa on 07/07/2015. (brc) (Entered: 07/07/2015)
07/08/2015	63	JUDGMENT permanently enjoining defendants Governor Alejandro Garcia-Padilla, Attorney General Cesar Miranda-Rodriguez, Melba Acosta-Febo, as agent of the Government Development Bank for Puerto Rico, and their successors and assigns from enforcing the Recovery Act. Signed by Judge Francisco A. Besosa on 7/8/15.(ab) (Entered:

		07/08/2015)
07/29/2015	64	MANDATE of USCA as to 53 Notice of Appeal, filed by John Doe, 49 Amended Notice of Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez, 47 Notice of Appeal, filed by Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez; AFFIRMED. RE: 60 USCA JUDGMENT. (xi) (Entered: 07/29/2015)
09/28/2015	65	MOTION to Withdraw Attorney as to Joseph G. Feldstein-Del Valle filed by Joseph G. Feldstein-Del Valle on behalf of Alejandro J. Garcia-Padilla, Cesar R. Miranda-Rodriguez Suggestions in opposition/response due by 10/16/2015 (Feldstein-Del Valle, Joseph) (Entered: 09/28/2015)
10/02/2015	66	ORDER re 65 Motion to Withdraw as Attorney: GRANTED. Wandymar Burgos-Vargas is now the attorney of record. Signed by Judge Francisco A. Besosa on 10/02/2015. (brc) (Entered: 10/02/2015)

CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

SIXTIETH CONGRESS, SECOND SESSION.

VOLUME XLIII.

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1909.

* * *

MR. WATSON with MR. FORNES.

For the balance of the day:

MR. HILL of Connecticut with MR. GRANGER.

On this vote:

MR. GAINES of Tennessee ("yes") with MR. COCKRAN ("no").

Mr. GAINES of Tennessee. Mr. Speaker, I am paired with the gentleman from New York [MR. COCKRAN]. I voted "yea;" I wish to answer "present."

The name of MR. GAINES of Tennessee was called, and he answered "present."

Mr. BENNET of New York. I answered "present," being paired with my colleague [MR. FORNES]. I am

of the opinion, if he were present he would vote "no," as I do also.

The name of MR. BENNET of New York was called, and he voted "no."

Mr. CURRIER. Mr. Speaker, I am paired with the gentleman from South Carolina [MR. FINLEY]. I voted "no;" I desire to answer "present."

The name of MR. CURRIER was called, and he answered "present."

The result of the vote was then announced as above recorded.

The SPEAKER. The gentleman from Massachusetts [Mr. TIRRELL].

Mr. TIRRELL. I yield to the gentleman from Kentucky [MR. SHERLEY].

Mr. SHERLEY. Mr. Speaker, if the House will indulge me for a few minutes, I will endeavor to explain very briefly each of these proposed amendments to the existing law. I have taken the trouble to have placed upon the desk of each Member a statement which embodies, in as brief language as possible, the various amendments; but for fear that some Members have not read it, or that there may be something not understood by them, I shall endeavor to explain the amendments now.

There are 11 amendments, and then a provision that when the amendments take effect they shall not affect litigation then pending.

The first amendment must be considered in connection with the eight amendment, and it is one looking to the correction of an abuse in regard to the fees allowed to receivers. In the practice there has

grown up a tendency to allow receivers very large fees without regard to the actual services performed. It was attempted some years ago to remedy this, but the amendment then offered and adopted did not accomplish its purpose and the courts seemed to be in doubt as to when the provision then adopted applied. So we have offered an amendment striking out of the existing law these words:

And allow such officers–

That is, the receivers, marshals, or trustees–

additional compensation for such services, but not at a greater rate than in this act allowed trustees for smaller services.

That being the first amendment. Then, in the eighth amendment there is a specific provision which limits the amount that can be allowed those receivers, to that which is now allowed to trustees, on the percentage basis, and further provides:

That before the allowance of such compensation notice of the application therefor, specifying the amount asked, shall be given to creditors in the manner indicated in section 58 of this act.

So that under the proposed change, before any allowance can be given to the receivers, the creditors must be notified. The sole object of this amendment is to protect the estate from this abuse of excessive fees–

Mr. BARTLETT of Georgia. What amendment is that?

Mr. SHERLEY. That is the eighth amendment, which must be considered with the first amendment.

The second amendment relates to ancillary jurisdiction of the bankruptcy courts and seeks to reconcile some of the decisions that have been rendered in different circuits. Many of the courts hold that any district court sitting as a bankruptcy court can take ancillary jurisdiction of a suit brought in another bankruptcy court; but some of the circuits have denied this doctrine. Now, it is manifest that the assets of a bankrupt may lie in several different districts, and that in order to have a proper and economical administration any bankruptcy court should have the right to consider ancillary proceedings looking to the winding up of the estate of the bankrupt.

Mr. BARTLETT of Georgia. Does that mean bankruptcy cases in the same circuit or district, or what does it mean?

Mr. SHERLEY. It means ancillary jurisdiction generally. The gentleman will appreciate that a suit may be brought, for instance, in the bankruptcy court in Georgia, and that the assets of the bankrupt may be also in other States. Now, in order to make absolutely certain the power of a bankruptcy court in such other States to consider ancillary proceedings, this amendment is proposed, such proceedings as I have stated being for the purpose of reaching assets of the bankrupt beyond the jurisdiction of the court.

Mr. BARTLETT of Georgia. Beyond the jurisdiction of the court where he is adjudged a bankrupt.

Mr. SHERLEY. So as to do away with the necessity of instituting proceedings over again. I will say to the gentleman that most of the circuits hold that the power exists, but some of them have denied

it, and in order to make it uniform and beyond question, this amendment is suggested.

Mr. BARTLETT of Georgia. The Supreme Court of the United States have never passed upon the question?

Mr. SHERLEY. They have not, under this law.

Amendment 3 undertakes to make clear the designation of those corporations which can be put into bankruptcy by involuntary proceedings; in other words, by proceedings of creditors. Under the existing law an attempt was made to designate the various corporations within the provisions of the law as well as to name those corporations which were excluded. Out of that grew a great diversity of opinion among the various judges as to what sort of a corporation was embraced. For instance, one court held that a laundry corporation which laundered collars and cuffs for a shirt manufacturer exclusively could be placed in bankruptcy, while another held that a corporation which did a general laundering business could not. Now, there is no reason for such a distinction. The proposed amendment reads as follows:

Any moneyed business or commercial corporation, excepting a municipal, railroad, insurance, or banking corporation.

Mr. COOPER of Wisconsin. I have just been having a conversation with a gentleman from my State who represents a mining district, and he claims that that act would not include a corporation engaged in mining, but my impression was that it would.

Mr. SHERLEY. I think the gentleman's constituent is clearly mistaken and that the gentleman himself is right.

Mr. PUJO. What is meant by the term "moneyed corporation?"

Mr. SHERLEY. The term "moneyed corporation" is used in contradistinction to those corporations, now few in number, that exist without regard to any financial interest involved, such as eleemosynary corporations, or institutions of that character.

Mr. SLAYDEN. Fraternal organizations.

Mr. SHERLEY. Fraternal organizations that are not moneyed. The present law reads as follows:

Any corporation engaged principally in manufacturing, trading, printing, publishing, mining, or mercantile pursuits.

Now the word "principally" has led to much of this confusion in the various courts, some of them holding that a corporation did come within the provisions, and some that it did not; and this change is along the line of scientific legislation. It is apparent that the proper way to legislate is to make your rule and then name your exceptions; whereas under the existing law they undertook not only to name the exceptions, but to designate in detail the corporations coming within the rule, which is always unscientific.

Mr. PUJO. I know of no such expression in law or jurisprudence as a "moneyed corporation," and I fail to understand it.

Mr. SHERLEY. I will say to the gentleman that it is the exact language that existed in the law of

1867, and has been fully construed by the Supreme Court.

Mr. HARDWICK. There are ten different propositions. Is it the purpose of the gentleman or those in charge of the bill to give us an opportunity to vote on those propositions separately, or must we swallow them as a whole?

Mr. SHERLEY. I will say to the gentleman that it would not be in power of any Member to prevent a separate vote if one is desired.

Mr. HARDWICK. If the gentleman will pardon me, if we are to consider this in the House and not in Committee of the Whole, how will any gentleman be able to get a vote?

Mr. SHERLEY. I can only answer the gentleman by saying that, as I understand the rules of the House, whenever a bill is considered a separate vote can be had on any amendment.

Mr. HARDWICK. I hope the gentleman is right about that, but I am afraid he is not.

Mr. SHERLEY. The fourth amendment serves, I think, to bring about quite a reform. Under the decisions of the court at present it has been held that a proposition looking to a composition between the debtor and the creditor cannot be had until after adjudication of the bankrupt.

Now, it is manifest that composition should be allowed before adjudication of the bankrupt as well as afterwards, and in point of fact where composition can be had, it is not right to force the debtor to undergo whatever stigma there may be in being adjudged a bankrupt. This permits of composition to

be had prior to the adjudication instead of after the adjudication.

Mr. SHACKLEFORD. Will the gentleman allow a question?

Mr. SHERLEY. Yes.

Mr. SHACKLEFORD. The former amendment excepts municipal, railroad, insurance, or banking corporations. Why that distinction?

Mr. SHERLEY. It was believed that municipal, railroad, insurance, or banking corporations were corporations that should not be permitted to take advantage of the bankrupt act or be put into bankruptcy. That has been the distinction that has usually existed. These corporations are quasi-public corporations.

Mr. SHACKLEFORD. What is the difference?

Mr. SHERLEY. They are quasi public with duties to the public, making them of such a character as to distinguish them from what may be properly called "private corporations."

Mr. HARDWICK. If the gentleman from Kentucky will pardon me, I want to interfere once more. The committee amendments, which are purely formal, of course, will be voted upon separately; but the gentleman's bill, as a whole, will be for passage, unless we have some kind of consent as to a vote on the separate propositions.

Mr. SHERLEY. The gentleman may be right.

Mr. HARDWICK. One more question. Would the gentleman be willing to separate the questions, so that we can have a vote on each one of them?

Mr. SHERLEY. I would be perfectly willing if the time permitted a final consideration of the matter.

Mr. HARDWICK. These are very important questions.

Mr. SHERLEY. I understand that they are, and the gentleman has had ample time and opportunity to study all of them.

Mr. HARDWICK. But we may not be in favor of all of them.

Mr. SHERLEY. The gentleman also will appreciate that where a man is limited as to time in this body he has to take advantage of conditions as he finds them.

Now, the fifth amendment relates to the grounds upon which a discharge may be refused a bankrupt. It is proposed to put this language in in lieu of the language now in the law relative to the third ground:

Or obtained property on credit upon a materially false statement in writing made by him to any person for the purpose of obtaining credit, or of being communicated to the trade or to the person from whom he obtains such property on credit.

It has been held by some courts that in order to prevent a man's discharge it must be shown that the materially false statement was made to the man who actually gave the credit, and this proposed change provides that if a materially false statement is made to anyone whereby the credit is given, it shall be a sufficient bar to the bankrupt's discharge. In other words, it prevents, and in my judgment properly prevents, a debtor who makes a materially false statement and obtains credit thereby from getting a discharge.

Mr. BARTLETT of Georgia. I understand that the amendment provides that although the debtor may only have made one false statement to one creditor, that false statement shall inure to the benefit of all the creditors, and not simply to the benefit of the one who has been deprived of his goods by the false statement.

Mr. SHERLEY. I do not think that is an accurate statement. The effect of the amendment is this: To hold, where a debtor makes a materially false statement, that the fact that that statement was not made to the particular creditor who advanced the credit does not make any difference. We all know what happens commercially. Here is a mercantile agency that obtains from a man a report. Now, if a man makes a materially false statement to that agency, and it goes out over the country to his creditors, he ought not to be permitted to get his discharge. Under the existing law you have to show that the materially false statement was made to the person who gave the credit.

The language is as clear as any explanation can make it, and that language says:

Or obtained money or property on credit upon a materially false statement, in writing, made by him to any person for the purpose of obtaining credit or of being communicated to the trade or the person from whom he obtains such property on credit.

Now, he must have obtained credit, and he must have obtained credit as a result of a false statement; but it is no longer necessary to show that the false statement was made directly to the man who gave him the credit. The immorality of the act remains just the same. If the man does make a false

statement, and on that false statement obtains credit, it is an immaterial fact, to my mind, whether the false statement was made to an agency, to A, who represents B, and the credit thereby obtained, or whether it was made direct to B and the credit thereby obtained.

Mr. HAMLIN. Take the words "in writing." Is it meant by that that the writing must be signed by the party making the false statement?

Mr. SHERLEY. I presume that the fact that it was signed by him would simply be a proof that he had made it, but if he makes it in writing and does not sign it it would still hold. He must make it in writing.

Mr. HAMLIN. I understood the language of the amendment to mean that, but the gentleman used as an illustration a statement made to one of these mercantile agencies.

Mr. SHERLEY. I used it without having in mind simply a verbal statement. If this man makes a written response to a mercantile agency and in that written response makes material, false statements, and thereby obtains credit, that is sufficient cause to object to his discharge in bankruptcy.

Mr. HAMLIN. Then the amendment would not go to mean the statement given out by the mercantile agency. Of course, their statement is in writing; but, as I understand, the statement to them from the party must be in writing, signed by the bankrupt.

Mr. SHERLEY. I would not say it would have to be actually signed by him. If he makes it in writing and sends it, even if he did not sign his name to it, it

would be sufficient. The signature is simply an evidence of it being his act, a proof, but not the only proof.

Now, there is in this amendment a change in the law authorizing the trustee to make objection to a discharge, but that is safeguarded by this provision:

That a trustee shall not interpose objections to a bankrupt's discharge until he shall be authorized so to do at a meeting of creditors called for that purpose.

In other words, that is to prevent a trustee of his own motion, and against the wishes of creditors, stopping a man's discharge. To object to his discharge he is required to get the right to make that objection. Heretofore he has had no right to object at all, and the result of that has been that the burden of preventing the discharge of fraudulent debtor has fallen on some particular creditor, because there was no one who could speak for all. It is proposed to authorize the trustee to do it when the creditors in meeting so agree.

The sixth amendment is simply one to correct an omission in the former amending act. That act provided in certain subsections for concurrent jurisdiction in state and federal courts in certain classes of cases to set aside preferences and fraudulent conveyances, but in that part of the act which authorized the trustee to institute suit, by mistake, the law failed to refer to one of these subsections, and this is simply to correct what might be designated a "clerical error."

Mr. BARTLETT of Georgia. Does that in any way change the jurisdiction?

Mr. SHERLEY. I think not. Under existing law now there is concurrent jurisdiction in both state and federal courts, and that is clearly stated; but when the provision in regard to the trustee instituting suits referred to under these sections was amended, it was neglected to put in that additional one.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. TIRRELL. Mr. Speaker, I yield the gentleman ten minutes more.

Mr. SHERLEY. The next amendment seeks to make trustees judgment creditors for the purpose of setting aside liens and preferences. It has been held in a recent decision that a trustee stood only in the shoes of some particular judgment creditor, and could bring suit only as representing him; and if there was no judgment creditor, he could not institute the suit. This puts him, as the representative of all the creditors, on the same footing as a judgment creditor, and enables him to institute these suits to set aside fraudulent conveyance, preferences, and so forth.

The eighth amendment I have already undertaken to explain. As I have stated, it must be considered in connection with the first amendment, and looks to limit the receivers' fees to as to make the maximum amount that can be paid receivers that which is now allowed trustees, which is fixed on a per centum basis, and also requires that before the allowance is made notice shall be given to the creditors so that they can object to an extreme allowance. This amendment is intended to correct one of the abuses that gentlemen have complained of to-day, of excessive costs.

Mr. BARTLETT of Georgia. The amendment fixes the maximum fee.

Mr. SHERLEY. It says that--

Receivers appointed pursuant to section 2 of this act shall receive for their services, payable after they are rendered, such commissions, not to exceed the percentages specified in this section, on moneys disbursed by them and on the value of the property turned over to the trustee, such value to be determined by the moneys realized therefrom as may be allowed by the court.

In other words, they are paid a per centum only on what is actually realized and not on a supposititious value, and that allowance is not to be given until the creditors have had notice, so that they can object. It is in the interest of cheapening the administration of the law.

Mr. SABATH. Will the gentleman yield for a question?

Mr. SHERLEY. Yes.

Mr. SABATH. There is nothing in this amendment that would in any way limit the fees to the attorneys that are appointed by these receivers or trustees.

Mr. SHERLEY. I take it that this would not allow the payment of excessive fees to attorneys; that the whole purpose of it is to restrict the allowance.

Mr. HARDWICK. What would prevent it?

Mr. SHERLEY. I take it the compensation allowed the receivers carries with it the idea of compensation allowed attorneys.

Mr. SABATH. It does not. Enormous fees are being allowed to special attorneys who happen to be the favorite gentlemen and who are being favored by these special receivers, who happen to be also the clerks of the same courts.

Mr. SHERLEY. I think that the gentleman is mistaken in assuming that this would allow those fees. If it should, it ought to be corrected, I will say to the gentleman frankly.

Mr. SHACKLEFORD. Why not correct it by an amendment of the language?

Mr. SHERLEY. I am perfectly willing to amend, if I were sure such amendment would reach the evil and not create one. I want to be perfectly fair with the House, and I have no doubt my colleagues will be equally so with me. In a law of this kind and magnitude, it is impossible for a man on his feet to carry in his head all the rulings and the actual practice under the law; and for that reason, if a gentleman suggests an amendment, I might, on first blush, be opposed to it or in favor of it; but I would not want to take the responsibility of considering it, because I am not able on my feet to look at it in all the relations it might bear. That could be done and ought to be done in a committee, and can still be done when this bill goes to the Senate.

The ninth amendment simply makes clear that before a man is given his final discharge, notice shall be given to the creditors. That is plainly, to my mind, the purpose of the existing law; but some courts have held that that was complied with by simply making a declaration in court, and not by actual notice to the creditors, and this requires that before the man gets his final discharge he shall file a

list of his creditors and notice shall be given. It seems to me it is a proper amendment.

Mr. SHACKLEFORD. How is such a notice to be served?

Mr. SHERLEY. The amendment provides:

And to that end the court shall, before entertaining an application for dismissal, require the bankrupt to file a list under oath of all his creditors, with their addresses, and shall cause notice to be sent to all such creditors of the pendency of such application, and shall delay the hearing thereon for a reasonable time to allow all creditors and parties of interest opportunity to be heard.

It is simply providing for ordinary notice by mail communication, I should say, and it leaves it in the discretion of the court to delay the hearing a reasonable time until such creditors could be heard, if they so desired.

Mr. HUGHES of New Jersey. The notice to be sent by the referee?

Mr. SHERLEY. It would be sent by an officer of the court. It is to prevent a creditor from taking advantage of what he knew to be a preference and a wrong against other creditors.

Mr. PUJO. Will the gentleman yield for a question?

Mr. SHERLEY. Yes.

Mr. PUJO. Within what time can these suits for cancellation be instituted?

Mr. SHERLEY. Of course the gentleman knows the general law provides four months.

Mr. PUJO. The general law provides that all such transfers within four months can be annulled and set aside; but, then there are laws of the States, in various jurisdictions, giving a much longer time. What would be the effect of the adoption of this amendment?

Mr. SHERLEY. This amendment, in that particular, does not affect the present law at all. The first change it makes in the existing law is that, in order to set aside such a preference, it is no longer necessary to show that the debtor intended to give the preference. If you show that the creditor at the time he received it had reason to know that he was obtaining a preference, that fact of itself is sufficient. It eliminates the intention of the debtor, looks to the substance of the act itself, and if the creditor knew he was getting the preference, then it is set aside.

Section 67, subdivision b, of the present law provides:

If a bankrupt shall have given a preference, and the person receiving it, or to be benefited thereby, or his agent acting therein, shall have had reasonable cause to believe that it was intended thereby to give a preference, it shall be voidable by the trustee, and he may recover the property or its value from such person. And, for the purpose of such recovery, any court of bankruptcy, as hereinbefore defined, and any state court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction.

It is now proposed to strike out the words "that it was intended thereby to give a preference" and to insert language that makes the section read as follows:

If a bankrupt shall have given a preference, and the person receiving it, or to be benefited thereby, or his agent acting therein, shall have had reasonable cause to believe, *at the time of the entry of the judgment or at the time of the recording or registering of the transfer, where such preference is evidenced by a transfer the recording or registering of which is required, that the enforcement of such judgment or transfer would effect a preference*, it shall be voidable by the trustee and he may recover the property or its value from such person; *for the purpose of this provision such transfer, where recording or registering is so required, shall not be deemed complete until the date of such recording or registering.* And for the purpose of such recovery any court of bankruptcy, as hereinbefore defined, and any state court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction.

Now, as I have said, the effect of this is to eliminate the intention of the debtor and require only proof that the creditor knew that he was getting the preference. The language–

For the purpose of this provision, such transfer, where recording or registering is so required, shall not be deemed complete until the date of such recording or registering–

Is intended to make the date of actual or constructive notice to other creditors, the date when the four months' preference period begins to run.

The SPEAKER. The time of the gentleman has expired.

Mr. TIRRELL. Mr. Speaker, I yield two minutes more to the gentleman from Kentucky.

Mr. SHERLEY. The eleventh amendment seeks to cure what is apparently a very bad decision. It has been held that if a man owed a creditor a thousand dollars and he borrowed from the creditor a hundred dollars in addition, that the creditor could then take security not only for the hundred dollars, but for the thousand also, and by simply loaning an inconsequential sum he could then get security for his whole debt, which up to that time was unsecured. The change here simply provides that the lien shall be valid only to the extent of the present consideration at the time of the transaction, and has the effect of doing away with secretly giving preference.

Mr. WEBB. I wanted to call the gentleman's attention to the case and ask him if the decision does not hold that the debtor also was at the time he made this preference solvent and that really there is no conflict between the decision and the present law.

Mr. SHERLEY. As I understand that decision, it was this namely, that an old debt which was unsecured, and which could not be secured as against the operation of the bankrupt law, could become secured on the creditor loaning an additional sum and taking a lien for both sums.

Mr. WEBB. I do not understand that decision in the law.

Mr. SHERLEY. The only possible effect of this amendment will be to properly limit the lien to the considerations, whatever they are, given at the time the lien is given.

Mr. WEBB. I think that is the law now and the construction of the courts also on the law.

Mr. SHERLEY. Mr. Speaker, I shall add to my remarks in the RECORD a statement from the report on the bill in further explanation of each of these amendments.

Statement relative to provisions of Sherley bill.

Sections 1 and 8. These sections should be read together. As the law originally stood there was no provision whatever regulating the compensation of receivers. These officers are frequently necessary, particularly when adjudications are conducted pending the election of a trustee. The compensation of all of the other officers in bankruptcy proceedings–that is, trustees and referees, and the clerks of the courts–is fixed by the statute itself. There being no limit to allowances to receivers, evils have grown up which seem to require legislation.

These same evils were apparent at the time of the amendatory bill in the Fifty-seventh Congress, and an effort was made to reach them by adding at the end of clause 5 of section 2 of the then law the words "and allow such officers additional compensation for such services, but not at a greater rate than in this act allowed trustees for similar services;" however, this addition being to a clause which merely authorized the business of bankrupts to be conducted for limited periods, it has been held that where receivers do not so conduct the business of bankrupts the clause does not apply, and that allowances to such receivers are not restricted to percentages given trustees by section 48 of the law.

Hence it has been thought wise to strike out the words just quoted and to fix the allowances to receivers by an addition to section 48 of the law. This addition appears accomplished by section 8 of the bill, which provides, in substance, that receivers shall never be allowed more for their services than trustees, and that creditors shall have notice of all applications for receivers' allowances. These changes will, therefore, make for decreased expenses of administration and remove the temptation which now exists to prolong receiverships without warrant.

Section 2. Under the law of 1867 ancillary jurisdiction of bankruptcy proceedings pending in one district court was conceded to be in all other district courts (Lathrop *v.* Drake, 91 U.S., 516). This doctrine, however, has not been uniformly recognized under the president act. Thus see In re William (123 Fed., 321); Ross-Mehan Foundry Company *v.* Southern Car and Foundry Company (124 Fed., 423), and other cases; for instance, those reported in 132 Fed., 697; 142 Fed., 726; and 153 Fed., 945, denying such jurisdiction; and In re Sutter Brothers (131 Fed., 654), and other cases, such as those reported in 133 Fed., 995, and 140 Fed., 55, asserting it. This section of the bill simply adds a clause to section 2 of the law conferring such ancillary jurisdiction on all district courts. Such jurisdiction is necessary to a proper administration of the law, both in the matter of the recovery of assets outside of the district where the proceeding is pending and in the equally important matter of the examination of witnesses not within the reach of the process of the court having primary jurisdiction of the case.

Section 3. This section, in substance, substitutes for the words "and any corporation engaged principally in manufacturing, trading, printing, publishing, mining or mercantile pursuits," the words "any moneyed, business, or commercial corporation, except a municipal, railroad, insurance, or banking corporation"–in short, would enact the rule and express the exception rather than enact the exception, as the present law did.

The books are already filed with cases construing the meaning of the clause in the present law first above quoted, and some very amusing decisions have been made. For instance, it has been held that a laundry company which launders new shirts, collars, and cuffs for a company that manufactures them is engaged in manufacturing, and therefore amenable to bankruptcy (In re Troy Steam Laundry Co., 132, Fed., 266), while a similar company which merely does a general laundry business is not. (In re White Star Laundry Co., 117 Fed., 570). Similarly it has also been held that a company which reservoirs and buys water for distribution to its customers is not amenable to bankruptcy (In re N.Y. & Westchester Water Co., 98 Fed., 711), and yet a company which gathers and buys ice for the same purpose may be so adjudged. (First National Bank v. Wyoming Insurance Co., 136 Fed., 466).

The words substituted are taken from the bankruptcy law of 1867 and their meaning has long since been settled by the courts. The reason for exempting the quasi public corporations will be apparent. Banks are excepted from the operations of the law at present. Other business entities having similar responsibilities to the public are now added.

Section 4. Compositions can now be obtained only after an adjudication that the debtor is a bankrupt, with the resultant stigma on his name. The change in section 12 of the law which would be accomplished by this section of the bill simply makes it possible for debtors to compose with their creditors before adjudication and without such stigma; in other words, encourages settlements between debtor and creditors under the supervision of the court, and is compulsory upon all creditors when a given proportion in number and amount shall be assented. Such settlements are now accomplished outside of court, and it is thought do not always result in each creditor getting the same percentage. These intracourt settlements are exceedingly popular in England, and are specifically provided for by section 3 of the English bankrupt act of 1890. (53 and 54 Vict., c. 71).

Section 5. The bill makes three changes in subdivision "b" of section 14 of the present law. First, it provides that trustees are sufficiently parties in interest to object to a discharge. Second, that they can so object only when authorized at meeting of creditors, and, third, that false mercantile statements, if made to the trade and relied on by the creditor, shall be an available objection to the debtor's discharge.

The first of these changes merely settles differences which exist between federal courts as to whether a trustee can object to a debtor's discharge. It is highly desirable that he should, as thereby the expenses of the proceeding will be spread over all of the creditors and not borne by a single creditor who may file objections. As a check upon unauthorized

objections by trustees, a provision is inserted prohibiting a trustee from interposing objections until he shall be authorized at a meeting of creditors called for that purpose. It is still an open question whether a false credit statement, to be available as an objection to a discharge, must not have been made to the creditor who extended the credit and at the time of the extension of such credit. Thus see In re Allendorf (129 Fed., 981), and to the opposite effect In re Dresser (146 Fed., 383; sc. below, 13 Am. B. R., 616). The change accomplished by the bill is simply one which makes available to an creditor ay materially false mercantile statement on which the debtor has obtained money or property on credit, and irrespective of whether such statement has been given to the creditor objecting or communicated generally to the trade.

Section 6. The change here is verbal, though apparently made necessary by decisions of courts. (For instance, see Gregory *v.* Atkinson, 127 Fed., 183; Skewis *v.* Barthell, 152 Fed., 534.) When the present law was amended, in 1908, sections 60, 67, and 70 were so changed that each of the suits there authorized was brought either in the state or the federal courts. This made necessary a corresponding change in subdivision "b" of section 23 of the law, but by inadvertence the words "and section 70, subdivision e" were omitted from the end of such subdivision. The present bill merely inserts those words, thus making section 23 of the law entirely in harmony with sections 60, 67, and 70.

Section 7. One of the most important decisions of the Supreme Court under the present law is York Manufacturing Company *v.* Cassell (201 U.S., 344),

which holds, in substance, that a trustee in bankruptcy, standing merely in the shoes of the bankrupt, has none of the rights or powers of a judgment creditor as against those transactions which are, by the laws of the States, declared void as to lien creditors, or for the purpose of initiating suits in the nature of creditors' bills, the intimation being that he is a judgment creditor only so far as he represents judgment creditors. This is contrary to the prevailing opinion under the law of 1867. Carried to its ultimate, the York Manufacturing Company case will, it is thought, put a premium on secret liens and give inequitable preferences to the judgment creditors of the bankrupt; in short, break down the basic rule of bankruptcy administration—that is, equality between all creditors of the same class.

Hence the bill, in words added to clause 2 of subdivision "a" of section 47 of the law confers upon trustees all the rights and powers possessed by judgment creditors holding executions duly returned unsatisfied, so far as suits to set aside preferences, fraudulent liens, or frauds per se are concerned, reference being made again to sections 60, 67, and 70 of the law.

Section 9. This change is one of practice. As the law now stands, the better opinion is that bankruptcy proceedings cannot be dismissed for want of prosecution or by consent until after ten days' notice to creditors, as provided in section 58 of the law. Some courts, however, have held that a proclamation in open court is a compliance with the present section 59 g. Other courts have made rules the effect of which is similar to the result which will

be accomplished by the adoption of the amendment suggested. That there may be no question about the matter, and the practice made uniform, as well as established, in so many words, clauses have been added to section g which will require notice and indicate what kind of notice is necessary when an application is made to dismiss a bankruptcy proceeding by consent or for want of prosecution. In this connection reference is made to In re Jemison Mercantile Company (112 Fed., 966); In re Plymouth Cordage Company (135 Fed., 1000).

Section 10. Early in the administration of the law it was the prevailing opinion, as apparently was the intention of the framers of the law, that the basic test of a voidable preference should be the result of the act rather than the intent of the actor. This was one of the notable differences between the bankruptcy law of 1867 and that of 1898. Of late, however, the courts have evidenced an intention to compel creditors seeking to void preferences to show not merely reasonable cause to believe, on the part of the creditor, that a preference was intended, but also that the debtor himself actually intended to commit a preference. Thus, Judge Severens, in First National Bank *v.* Holt (155 Fed., 100, says:

"We incline to think with the circuit court of appeals of the first circuit (Hardy *v.* Gray, 144 Fed., 922, 925) that the reasonable implication of the language is that the debtor must have intended the preference."

See also Loeser *v.* Savings, etc., Co. (148 Fed., 975); Myers *v.* Pipkin, etc., Co. (136 Fed., 396). So also there has been much hairsplitting as to the time when an intention to prefer, or a reasonable cause to

believe that a preference was intended, must be proven to have existed. These decisions have suggested a redraft of subdivision "b" of section 60, which it is thought will settle these matters in the interest not merely of fair dealing between creditors of the same class, but also to make this section again harmonious with the rest of the statute.

Thus the words "that it was intended thereby to give a preference" have been stricken out, and the words "at the time of entry of the judgment, or at the time of the recording or registering of the transfer, where such preference is evidenced by a transfer recording or registering of which is required, that the enforcement of such judgment or transfer would effect a preference," as well as the following words a little later in the section, the need of which is obvious," for the purpose of this provision such transfer, where recording or registering is so required, shall not be deemed complete until the date of such recording or registering," have been inserted.

The effect of these changes will be, first, to make the date of actual or constructive notice to other creditors the date when the four months' preference period begins to run; and second, to obviate the necessity hereafter of showing affirmative proof motives of the debtor to prefer the creditor, the basic test being that the creditor had reasonable cause to believe that the enforcement of his judgment or transfer will give him a preference over other creditors.

Section 11. The change here merely inserts the words "to the extent of such present consideration only" after the word "shall" in the last clause of subdivision "d" of section 67 of the law. This change

is made necessary by decisions of which Coder *v.* Arts (152 Fed., 943), and First National Bank *v.* Holt (155 Fed., 100), are typical, these decisions being nothing less than that if a debtor owes his creditor, say, $1,000, and the creditor, having no security, makes a subsequent loan of $10 to the same debtor and takes security covering both such subsequent and preceding loans, that his security is good as to both loans, even within the four month's period, or perchance the day before the bankruptcy. These decisions are now being made use of by creditors to secure unjust and inequitable advantages over other creditors and are subversive of the plain purpose of the law that all creditors of the same class shall be treated alike. It is thought that the change suggested will meet the decisions and prevent these inequitable results.

Section 12. This clause simply provides that the amendments suggested by the bill will not affect the cases begun prior to the approval of the bill, and is a practical reprint of the same clause in the bill which was passed by the Fifty-seventh Congress.

Mr. CLAYTON. Will the gentleman from Massachusetts [Mr. TIRRELL] yield to me two minutes?

Mr. TIRRELL. Yes, sir.

Mr. CLAYTON. Mr. Speaker, I have here a pamphlet entitled "Proposed amendments to the national bankruptcy act as contained in H.R. 21929," to which our distinguished friend from Kentucky [MR. SHERLEY] made frequent reference during the course of his admirable remarks. I suppose this pamphlet, Mr. Speaker, was prepared by a very good lawyer, who appeared before the Judiciary

Committee and presented arguments in favor of this bill in connection with the arguments also presented to the committee by the gentleman from Kentucky [MR. SHERLEY]. I desire to ask that this document, which gives in one column the present law and in the parallel column the proposed amendments, together with footnotes explanatory of it, be printed in the proceedings of to-day, so that the lawyers of the country and people interested in the matter may understand just what changes in this law are made should this bill become a law.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

The document is as follows:

PROPOSED AMENDMENTS TO THE NATIONAL BANKRUPTCY ACT AS CONTAINED IN H. R. 21929

AMENDMENT 1.

Section 2, clause 5.

PRESENT LAW. [Matter in brackets elided.]	PROPOSED AMENDMENT. [New matter in italics.]
Authorize the business of bankrupts to be conducted for limited periods by receivers, the marshals, or trustees, if necessary in the best interests of the estates, [and allow such officer additional compensation for such services, but not at a greater rate than	Authorize the business of bankrupts to be conducted for limited periods by receivers, the marshals, or trustees, if necessary in the best interests of the estates.

this act allowed trustees
for similar services.]

NOTE.

The change here would drop from sec. 2 (5) of the law the words added by the amendatory act of 1903. The reason is explained in the comment on amendment 8 of the bill, post.

AMENDMENT 2.

Section 2, clause 19.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
Transfer cases to other courts of bankruptcy.	Transfer cases to other courts of bankruptcy; *and* (20) *exercise ancillary jurisdiction of persons or property within their respective territorial limits in aid of a receiver or trustee appointed in any bankruptcy proceeding pending in any other court of bankruptcy.*

NOTE.

Here it is proposed to confer on district courts, by statute, ancillary jurisdiction of bankruptcy proceedings pending in any other district court. Such jurisdiction was conceded under the laws of 1867 by the decision of the Supreme Court in Lathrop vs. Drake, 91 U.S. 516, but has not been recognized by some decisions under the present act.

Some courts assert it; others refuse to do so. Such refusal has resulted in much hardship, as it tends to subject assets of bankrupts which happen to be in some jurisdiction other than that of the adjudication to attachment and other state processes, and thus to the distribution of such assets among local creditors, irrespective of the rights of general creditors in the bankruptcy proceeding.

Reference is made to In re Williams, 123 Fed., 321, Ross-Mehan Foundry Co. vs. Southern Car & Foundry Co., 124 Fed. 403, In re Tybo, etc., Co., 132 Fed. 697, In re Hartz, 142 Fed. 726, Hull vs. Burr, 153 Fed. 945, denying jurisdiction; and In re Sutter Bros., 131 Fed. 654, Lawrence vs. Lowrie, 133 Fed. 995, and In re Benedict, 140 Fed. 55, asserting it.

AMENDMENT 3.

Section 4, subdivision B.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
Any natural person, except a wage-earner, or a person engaged chiefly in farming, or the tillage of the soil, any unincorporated company, [and any corporation engaged principally in manufacturing, trading, printing, publishing, mining, or mercantile pursuits,] owing debts to the amount of one	Any natural person, except a wage-earner, or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company, *and any moneyed, business or commercial corporation, except a municipal, railroad, insurance, or banking corporation*, owing debts to the amount of one

thousand dollars or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this act. [Private bankers, but not national banks or banks incorporated under state or territorial laws, may be adjudged involuntary bankrupts.]

The bankruptcy of a corporation shall not release its officers, directors, or stockholders, as such, from any liability under the laws of a State or Territory of the United States.

thousand dollars or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this act.

The bankruptcy of a corporation shall not release its officers, directors, or stockholders, as such, from any liability under the laws of a State or Territory of the United States.

NOTE.

The changes here are intended to broaden the present law so far as it affects corporations. As that law now stands, only corporations "engaged principally in manufacturing, trading, printing, publishing mining, or mercantile pursuits" can be proceeded against by creditors. There is no good reason for these distinctions. The law, as it now stands, leads to much litigation as to what corporations are included in the enumerated classes, and thus confusion and the wasting of assets. Some

rather amazing distinctions have been made by the courts. In New York a corporation which constructs bridges and piers is liable to bankruptcy (In re Niagara Constructing Co., 127 Fed., 782), but in Virginia such a corporation is not (In re MacNicholl Construction Co., 134 Fed., 979); a hotel corporation, which also run a barroom, is amenable (In re Troy Steam Laundry Co., 132 Fed, 266), but a similar corporation, which also runs a barroom, is not (In re Chesapeake Oyster and Fish Co., 112 Fed., 960); a laundry company, which launders new shirts, collars, and cuffs for a company that manufactures them, is amenable (In re Troy Steam Laundry Co., 132 Fed., 266), but a similar company doing a general laundry business is not (In re White Star Laundry Co., 117 Fed., 570); while it has been held that a company which reservoirs and buys water for distribution to its customers cannot be adjudged a bankrupt (In re N.Y. & Westchester Water Co., 98 Fed., 711), and yet a company which gathers and buys ice for the same purpose may be (1st Natl. Bank vs. Wyoming Ice Co., 136 Fed., 466).

AMENDMENT 4.

Section 12, subdivision A.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
A bankrupt may offer terms of composition to his creditors after, but not before, he has been examined in open court or at a meeting of his	A bankrupt may offer, *either before or after adjudication*, terms of composition to his creditors after, but not before, he has been

creditors and filed in court the schedule of his property and list of his creditors, required to be filed by bankrupts.	examined in open court or at a meeting of his creditors, and filed in court the schedule of his property and list of his creditors required to be filed by bankrupts. *In compositions before adjudication the bankrupt shall file the required schedules, and thereupon the court shall call a meeting of creditors for the allowance of claims, examination of the bankrupt, and preservation or conduct of estates, at which meeting the judge or referee shall preside; and action upon the petition for adjudication shall be delayed until it shall be determined whether such composition shall be confirmed.*

. NOTE.

This section is new, but the reasons for it are convincing. Under the law of 1867, as amended in 1874, compositions could be had both before and after adjudications of bankruptcy. Now, such an adjudication, with the stigma which results, must be had before there can be a composition. Section three of the English bankruptcy act of 1890 (53 and 54

Vict. c. 71) provides for what are technically called "schemes of arrangement," and permits creditors in that country to compose with their debtors, under the supervision of the court but without an actual bankruptcy. This provision therefore stimulates official settlements, compulsory upon all creditors, when a given proportion in number and amount shall have assented. These schemes of arrangement are very common in England. Here, compositions are growing in favor, but, being held to be impossible until after an adjudication, which, in the case of involuntary bankruptcies, is often considerably delayed, are availed of much less than they should be. Hence the bill would permit official settlements between creditors and debtor immediately after the filing even of an involuntary petition, on notice and a proper investigation by the court; and thus, in effect, not only prevent the debtor being stigmatized as a bankrupt, but accomplish speedy settlements with creditors, at present rarely possible in any other way. It is thought, too, that the plan will greatly decrease the expenses of court administration, and thus both creditors and debtors be induced to avail themselves of it.

AMENDMENT 5.

Section 14, subdivision B.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
The judge shall hear the application for a discharge, and such proofs and pleas as may	The judge shall hear the application for a discharge, and such proofs and pleas as may

be made in opposition thereto by parties in interest, at such time as will give parties in interest a reasonable opportunity to be fully heard and investigate the merits of the application and discharge the applicant unless he has (1) committed an offense punishable by imprisonment as herein provided; or (2) with intent to conceal his financial condition, destroyed, concealed, or failed to keep books of account or records from which such condition might be ascertained; or (3) obtained property on credit [from any person] upon a materially false statement in writing made to [such] person for the purpose of obtaining [such property on] credit; or (4) at any time subsequent to the first day of the four months immediately preceding the filing of the petition transferred, removed, destroyed, or concealed

be made in opposition thereto by *the trustee or other* parties in interest, at such time as will give *the trustee or* parties in interest a reasonable opportunity to be fully heard, and investigate the merits of the application and discharge the applicant unless he has (1) committed an offense punishable by imprisonment as here provided; or (2) with intent to conceal his financial condition, destroyed, concealed, or failed to keep books of account or records from which such condition might be ascertained; *or* (3) *obtained money or property on credit upon a materially false statement in writing, made by him to any person for the purpose of obtaining credit or of being communicated to the trade or to the person from whom he obtains such property on credit*; or (4) at any time subsequent to the first

any of his property with intent to hinder, delay, or defraud his creditors; or (5) in voluntary proceedings been granted a discharge in bankruptcy within six years; or (6) in the course of the proceedings in bankruptcy refused to obey any lawful order of or to answer any material question approved by the court.

day of the four months immediately preceding the filing of the petition transferred, removed destroyed, or concealed, or permitted to be removed, destroyed, or concealed any of his property with intent to hinder, delay or defraud his creditors; or (5) in voluntary proceedings been granted a discharge in bankruptcy within six years; or (6) in the course of the proceeding in bankruptcy refused to obey any lawful order of or to answer any material question approved by the court: *Provided, that a trustee shall not interpose objections to a bankrupt's discharge until he shall be authorized so to do at a meeting of creditors called for that purpose.*

NOTE.

It is generally admitted that the law as originally passed was weak in so far as it tended to prevent the discharge of dishonest debtors. It was much strengthened by the amendments of 1903. It should be still more strengthened. First, by settling beyond

peradventure that the trustee is sufficiently a party in interest to object to a discharge; second, by making the giving of a false mercantile statement in writing as a basis of credit an objection to a discharge.

As in the first: The change suggested is, perhaps, already the law (In re Levey, 133 Fed., 572), but this has been doubted. Most objections have been filed by individual creditors and asserted at their expense. If the trustee, as the representative of all of the creditors, can assert those objections, the expense can be spread over all, and thus many fraudulent bankrupts be refused discharges. Creditors are protected against an improper use of their funds by the new proviso clause at the end of the section.

As to the second: The clause which was in Judge Ray's original bill, in the 56th Congress, is suggested again. It was slightly changed in his bill in the 57th Congress, and was very much modified before the bill passed. Indeed, it is now an open question whether a false credit statement, to be available as an objection to a discharge, must not have been made to the creditor who extended the credit and at the time of the extension of such credit. To this effect is In re Allendorf, 129 Fed., 981; and, to the opposite effect, In re Dresser, 13 Am. B. R., 616 (as affirmed in 146 Fed., 383), and In re Pincus, 147 Fed., 621.

AMENDMENT 6.

Section 23, subdivision B.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
Suits by the trustees	Suits by the trustees

shall only be brought or prosecuted in the courts where the bankrupt, whose estate is being administered by such trustee, might have brought or prosecuted them if proceedings in bankruptcy had not been instituted, unless by consent of the proposed defendant, except suits for the recovery of property under section sixty, subdivision b, [and] section sixty-seven, subdivision c.	shall only be brought or prosecuted in the courts where the bankrupt, whose estate is being administered by such trustee, might have brought or prosecuted them if proceedings in bankruptcy had not been instituted, unless by consent of the proposed defendant, except suits for the recovery of property under section sixty, subdivision b, section sixty-seven, subdivision c, *and section seventy, subdivision e.*

NOTE.

The change here would give effect to the last sentence of sec. 70-e of the present law. Such sentence was added by the amendatory act of 1903. The same words were then added to secs. 60-b and 67-e. To make the change effective, a corresponding change was necessary in sec. 23-b, but for some reason the words "and section seventy, subdivision e" were stricken from the amendatory bill. They should be restored, so as to make the statute consistent and obviate the controversy as to whether suits to set aside fraudulent transfers that are not technically preferences can be brought in the federal district courts (see Gregory vs. Atkinson, 127 Fed., 183, and Skewis vs. Barthell, 152 Fed., 534).

AMENDMENT 7.

Section 47, clause 2, subdivision A.

PRESENT LAW. [Matter in brackets elided.]	PROPOSED AMENDMENT. [New matter in italics.]
Collect and reduce to money the property of the estates for which they are trustees, under the direction of the court, and close up the estate as expeditiously as is compatible with the best interest of the parties in interest.	Collect and reduce to money the property of the estates for which they are trustees, under the direction of the court, and close up the estate as expeditiously as is compatible with the best interest of the parties in interest; *and, for the purposes of suits specified in subdivision b of section sixty, subdivision c of section sixty-seven, and subdivision e of section seventy of said act, such trustees shall be deemed lien creditors at the time of the bankruptcy and, as such, vested with all the rights and powers possessed by judgment creditors holding executions duly returned unsatisfied.*

NOTE.

One of the most important decisions of the Supreme Court under the present law is York Mfg.

Co. vs. Cassell (201 U. S., 344). Carried to its extreme, this decision will, in effect, put a premium on secret liens and give inequitable preferences to the judgment creditors of the bankrupt. H. R. 15089, in the 59th Congress, was intended to meet the trend of the decisions toward the York Mfg. Co. case, and the clause in the present bill is merely a redraft of sec. 7 of that bill. Under the law of 1867, a trustee in bankruptcy was, in effect, a judgment creditor. Without some such doctrine, either recognized by the courts or enforced by the statutes, both the theoretical and practical equality among all creditors of the same class which is commanded by the other sections of the law will frequently become impossible. Hence, the bill, in so many words, confers upon trustees all of the rights and powers possessed by judgment creditors holding executions duly returned unsatisfied.

AMENDMENT 8.

Section 48, subdivision D.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
No subdivision d in present law.	d *Receivers appointed pursuant to section two of this act shall receive for their services, payable after they are rendered, such commissions, not to exceed the percentages specified in this section, on moneys disbursed by them and on the value of*

the property turned over to the trustee, such value to be determined by the moneys realized therefrom, as may be allowed by the courts: Provided, That before the allowance of such compensation notice of the application therefor, specifying in the amount asked, shall be given to creditors in the manner indicated in section fifty-eight of this act.

NOTE.

This section is taken bodily from H. R. 15089. The developing evils which led to the suggestion then have increased, rather than diminished. The original law, even after it was amended in 1903, did not in terms limit the fees of receivers, though the fees of all other officers were fixed by this statute. Receivers are often necessary; sometimes they are mere custodians and remain in possession, at most, a couple of weeks. At other times, where the adjudication is contested, they remain in possession, perhaps conducting a going business, for months. Clearly, they should receive no more for their work, no matter how long they serve, then trustees receive for similar work–that is, granting that the compensation of trustees receive for similar work–that is, granting that the compensation of trustees as fixed by section 48 is sufficient. In actual practice, however, receivers are usually allowed much more.

Clearly, too, those receivers who are mere custodians should receive much less than the percentages allowed to trustees for converting and distributing assets. The problem has been much discussed, and the difficulty has led to the promulgation in certain of the districts of rules intended to meet it (thus, see Rule IX, Northern District of Ill., 140 Fed., v). There is, however, no uniformity and much complaint.

After much discussion and correspondence, but without, however, feeling that by any means the ideal has been reached, the clause found in section 8 of the bill is suggested. It is, in form, an amendment of section 48 of the act, i.e., the section on the compensation of trustees, by the addition of a new subdivision. That the amendment of section 2 (5) of the law, made by the amendatory act of 1903, did not accomplish its purpose, but rather increased existing confusion, is indicated in In re Richards, 127 Fed., 772, and In re Sully, 133 Fed., 997. Hence, it is now abandoned, and the whole matter treated in this new subdivision of section 48. Such subdivision will permit the allowance to receivers whose work has been long and arduous of the same compensation as allowed to trustees; but, by requiring notices to creditors stating the amount asked for, would tend to check similar allowances where the receiver has been merely a custodian. It will be noted that the basis upon which the percentages are to be reckoned is the actual value realized and not the inventory value. The reason for this is apparent.

AMENDMENT 9.

Section 59, subdivision G.

PRESENT LAW. PROPOSED AMENDMENT.

[Matter in brackets elided.]	[New matter in italics.]
A voluntary or involuntary petition shall not be dismissed by the petitioner or petitioners or for want of prosecution or by consent of parties until after notice to the creditors.	A voluntary or involuntary petition shall not be dismissed by the petitioner or petitioners or for want of prosecution or by consent of parties until after notice to the creditors, *and to that end the court shall, before entertaining an application for dismissal, require the bankrupt to file a list under oath of all his creditors, with their addresses, and shall cause notice to be sent to all such creditors of the pendency of such application, and shall delay the hearing thereon for a reasonable time to allow all creditors and parties in interest opportunity to be heard.*

NOTE.

It is clearly the law now that involuntary petitions cannot be dismissed without the regular ten-day notice to all creditors, but there is no statutory provision requiring a debtor petitioned against to file a list of his creditors, so that such notice can be given. Hence, in several of the districts, the practice has grown up of dismissing

involuntary petitions on the application of the alleged bankrupt and the consent of the petitioning creditors, merely on a pro forma proclamation in court. Such practice is indicated in In re Jemison Mer. Co., 112 Fed., 966, tolerated in In re Levi, 142 Fed., 962; while the requirement of notice is flatly asserted in In re Plymouth Cordage Co., 135 Fed., 1000. The amendment suggested merely gives point to what the law now is, by providing that a list of creditors shall be filed, so that the notice may be given.

AMENDMENT 10.

Section 60, subdivision B.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
If a bankrupt shall have given a preference, and the person receiving it, or to be benefited thereby, or his agent acting therein, shall have had reasonable cause to believe [that it was intended thereby to give a preference,] it shall be voidable by the trustee, and he may recover the property or its value from such person. And, for the purpose of such recovery, any court of bankruptcy, as hereinbefore defined,	If a bankrupt shall have given a preference, and the person receiving it, or to be benefited thereby, or his agent acting therein, shall have had reasonable cause to believe, *at the time of the entry of the judgment or at the time of the recording or registering of the transfer, where such preference is evidence by a transfer the recording or registering of which is required, that the enforcement of such*

and any state court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction.	*judgment or transfer would effect a preference,* it shall be voidable by the trustee and he may recover the property or its value from such person; *for the purpose of this provision such transfer, where recording or registering is so required, shall not be deemed complete until the date of such recording or registering.* And for the purpose of such recovery any court of bankruptcy, as hereinbefore defined, and any state court which would have had jurisdiction if bankruptcy had not intervened shall have concurrent jurisdiction.

NOTE.

The courts continue to find holes in the sections of the law which interdict preferences. Hence, it has been thought wise to suggest that sec. 60-b of the statute be further amended to meet such recent decisions as Hardy vs. Gray, 144 Fed., 922; 1st Nat'l Bank vs. Louisville, 155 Fed., 100; Loeser vs. Savings etc. Co., 148 Fed., 975, and Meyers vs. Pipkin etc. Co., 136 Fed., 396.

The tendency of the courts, in construing the section as it now stands, is to hold that it must

appear affirmatively not merely that the creditor had reasonable cause to believe he was getting a preference, but, also, that the debtor intended to give him one. This is contrary to the evident intention of the framers of the original law to eliminate intention on the part of the debtor as the supreme test, and substitute therefor reasonable cause to believe on the part of the creditor. Further, there are already a number of decisions which seem to split hairs as to the time when intention to prefer must be shown.

Hence, after considering not only the cases cited above, but numerous other decisions along similar lines, the clause found in the bill has been suggested. Its effect will be to eliminate the necessity of a showing of intent to prefer, and to substitute for such intent the effect of the act, as well as to start the four months' period running from the date of either actual or constructive notice.

AMENDMENT

Section 67, subdivision D.

PRESENT LAW.	PROPOSED AMENDMENT.
[Matter in brackets elided.]	[New matter in italics.]
Liens given or accepted in good faith and not in contemplation of or in fraud upon this act, and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice,	Liens given or accepted in good faith and not in contemplation of or in fraud upon this act, and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice,

shall not be affected by this act.	shall *to the extent of such present consideration only* not be affected by this act.

NOTE.

This change is intended to meet the doctrine of such cases as Coder *v.* Arts, 152 Fed., 941, and 1st Nat'l Bank *v.* Holt, 155 Fed., 100. If such decisions are the law, a creditor holding a claim of $1,000 can, on the day before the bankruptcy, loan his debtor an additional $100, taking from him collateral worth, say, $1,500, applicable to both debts, and thus secure a preference so far as the antecedent debt is concerned. This is contrary to the principles back of the statute, and, if permitted to remain the law, would make it easy for banks and merchandise creditors to secure preferences that would, in effect, nullify the law.

THE TIME WHEN THIS LAW SHALL GO INTO EFFECT

That the provisions of this amendatory act shall not apply to bankruptcy cases pending when this act takes effect, but such cases shall be adjudicated and disposed of conformably to the provisions of said act approved July first, eighteen hundred and ninety-eight, as amended by said act approved February fifth, nineteen

hundred and three.

NOTE.

This merely indicates the cases which the act shall affect, and is almost identical with section nineteen of the amendatory act of 1903.

Mr. SHERLEY. With the permission of the gentleman from Massachusetts [MR. TIRRELL] I would like to offer two formal amendments relating to the print of the bill.

On page 5, line 4, after the word "prosecuted" insert the word "them." That was simply omitted in the print. The other amendment I propose is on page 6, in line 9, after the word "specifying" strike out the word "in." It now reads "specifying in the amount asked," and it ought to read "specifying the amount asked."

The SPEAKER. Does the gentleman from Massachusetts yield for the amendments?

Mr. TIRRELL. I do.

The SPEAKER. The Clerk will report the amendments.

Mr. BARTLETT of Georgia. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT of Georgia. Ought not this ill to be read by sections for amendment before it is passed?

The SPEAKER. We are not operating in the House as in Committee of the Whole House on the state of the Union. Of course, if any demand is made, separate votes will come upon the

amendments. These amendments, the Chair presumes, are simply to be pending.

Mr. SHERLEY. If the Chair please, they being simply amendments, I would like to ask unanimous consent for them to be considered and adopted.

The SPEAKER. The gentleman asks unanimous consent that the following amendments be agreed to. The Clerk will report the amendments.

Mr. BARTLETT of Georgia. Mr. Speaker, before that is done, I desire to know if this bill will not be read as bills usually are for amendment before it is passed?

The SPEAKER. Bills are read in Committee of the Whole House on the state of the Union under the five-minute rule. This is in the House, and subject ordinarily to the rules of the House. The gentleman can move the previous question at any time that he may choose on one or all of the amendments. It is not customary in the House to read the amendments for consideration separately.

Mr. BARTLETT of Georgia. I understood when the amendments were to be brought up we would have an opportunity to discuss these amendments. I may have been in error.

The SPEAKER. The special order is silent on that matter.

Mr. BARTLETT of Georgia. It was not from anything that was stated on the floor, but the gentleman who proposed them.

The SPEAKER. The gentleman from Kentucky asks unanimous consent that two clerical amendments may be agreed to.

Mr. SHACKLEFORD. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHACKLEFORD. Will it be in order at this time to go into Committee of the Whole for the consideration of the amendments to this bill? I think that was the ruling the Chair made yesterday evening.

The SPEAKER. This bill is being considered in part under the special order in the House; but in its consideration in the House, except as this special order varies the rules, the bill will be considered under the rules.

Mr. SHACKLEFORD. I supposed it was like the case yesterday evening, where it was moved to go into Committee of the Whole House on the state of the Union for consideration.

The SPEAKER. No. In the opinion of the Chair it would not be in order. Is there objection to the request of the gentleman from Kentucky? The Chair hears none. The Clerk will report the two amendments.

The Clerk read as follows:

Page 5, line 4, after the word "prosecuted," insert the word "them" and on page 6, line 9, after the word "specifying," strike out the word "in."

The SPEAKER. Without objection, the amendments will be considered as agreed to.

There was no objection, and the amendments were agreed to.

Mr. TIRRELL. I yield five minutes to the gentleman from Missouri [MR. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, I would like to say a few words about just two of these amendments. Some of them, if the law is to remain on the statute books, and the House has so decided, will tend to improve it. There are some others, I think, that from any good point of view are objectionable. I regard amendment No. 9 as one of them and amendment No. 10 as another. First, this amendment No. 9 would provide that in a case where a person was thrown into bankruptcy or a petition filed for voluntary bankruptcy, and where all the parties were entirely willing that the proceedings should be stopped, they should not terminate except upon the filing of a list of creditors, with other particulars, all under oath. Now, it might happen that the petition was filed inadvertently; it might happen that is was filed maliciously or in pique; it might happen that the person most affected was not at all a bankrupt; and yet it might embarrass such person if there could not be an end put to his troubles, even by consent, without a disclosing to everybody the state of his indebtedness, parading a complete list of his creditors and the amount of indebtedness to each. That is what this amendment No. 9 will require.

I can understand how that might be proper; and so far as I am concerned, I would have no objection to it in the case of a voluntary bankruptcy, where the man of his own motion takes the initial step toward being adjudged a bankrupt.

So far as the person who files his own petition to be adjudged a bankrupt is concerned, I would not make any particular objection to requiring that he make a list, under oath, of his creditors, their addresses, and the amount of indebtedness to each,

before the proceeding be ended. But as to the man against whom proceedings are instituted, it seems to me that it is assuming a good deal if, when those who institute the proceedings and all concerned are willing to have the proceedings terminated, they shall not be terminated, and the man shall not get out of court unless he files, under oath, a....

* * *

UNIFORM SYSTEM OF BANKRUPTCY

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

SEVENTY-SECOND CONGRESS

SECOND SESSION

ON

S. 5699

A BILL TO AMEND THE ACT OF JULY 1, 1898, ENTITLED "AN ACT TO ESTABLISH A UNIFORM SYSTEM OF BANKRUPTCY THROUGHOUT THE UNITED STATES," AS AMENDED

MARCH 2, 1933

Printed for use of the committee on the Judiciary

UNITED STATES
GOVERNMENT PRINTING OFFICE
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* * *

UNIFORM SYSTEM OF BANKRUPTCY

THURSDAY, MARCH 2, 1933

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The committee met, pursuant to call, at 10 o'clock a.m., in the committee room, Capitol, Senator George W. Norris (chairman) presiding.

Present: Senators Norris (chairman), Robinson, Hastings, Hebert, Austin, Schuyler, King, Bratton, and Black.

Present also: Hon. Arthur H. Vandenberg, a Senator from the State of Michigan.

The Chairman. Gentlemen, I have called you together this morning to consider S. 5699, a bill that I introduced yesterday. The bill may be incorporated in the record at this point.

(S. 5699 is here printed in full, as follows:)

[Senate 5699, Seventy-second Congress, second session]

A BILL To amend the act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States", as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of July 1, 1898, entitled "An act to establish a uniform system of

bankruptcy throughout the United States", as amended by the acts of February 5, 1903, June 15, 1906, June 25, 1910, March 2, 1917, January 7, 1922, May 27, 1926, and February 11, 1932, be, and it is hereby, amended by adding thereto a new chapter to read as follows:

"CHAPTER IX

"PROVISIONS FOR THE TEMPORARY RELIEF OF INSOLVENT MUNICIPAL CORPORATIONS AND TO PRESERVE THE TAXABLE VALUES OF PROPERTY THEREIN

"SECTION 1. The term 'municipal corporation' as used in this chapter is hereby defined as meaning a political subdivision of a State having powers of local government and charged with the duty of protecting life, health, property, or public order.

"SEC. 2. This chapter shall apply only to municipal corporations having a population of not less than fifty thousand inhabitants, as shown by the most recent Federal census, and having an indebtedness of not less than $1,000,000, excluding from the calculation of such indebtedness any unfunded indebtedness for operating expenses incurred or accrued within the current fiscal year of such municipal corporation, and any unfunded indebtedness for salaries of employees and officers, and any unfunded indebtedness representing the furnishing of supplies for welfare relief.

"SEC. 3. A municipal corporation shall be deemed to be insolvent for the purposes of this chapter when it is in default upon any of its funded obligations or notes or is unable to pay out of its present and probable income its accrued and accruing

indebtedness, and when the money which may reasonably be expected to be raised by the levy of and collection of taxes in the said municipal corporation within its current fiscal year, together with such other sources of income of the municipal corporation as may exist, shall be insufficient to pay the reasonably necessary and economical operating expenses of such municipal corporation, its probable requirements for welfare relief, and the service of its debts.

"SEC. 4. Such insolvent municipal corporation may present to the United States district court, of the district of the United States wherein such municipal corporation is situated, a petition, certified to by its chief executive officer, or by such public officer who at the time is performing the duties of such executive officer or by and with the approval and authority of a majority vote at a duly constituted meeting of its legislative body, in case the said executive officer refuses or neglects to act, which petition shall set forth facts from which the court may determine whether or not such municipal corporation is insolvent within the meaning of this chapter, and upon such filing a judge of such district court shall fix a date for a hearing upon such petition and such hearing shall take precedence over all other business before the court.

"SEC. 5. Upon such hearing upon such petition the court having jurisdiction as herein defined may, by its order duly made and entered, dismiss the said petition or make an interlocutory decree that the petitioning municipal corporation is insolvent under the provisions of this act, and such interlocutory decree shall provide that, until the conclusion of final

hearing upon such petition, all payments of interest or sinking-fund payments or payments of principal of any indebtedness of any such municipal corporation, except unfunded indebtedness for operating expenses incurred or accrued within the current fiscal year of such municipal corporation and except unfunded indebtedness for salaries of employees and officers of such municipal corporation and except unfunded indebtedness representing the furnishing of supplies for welfare relief, shall not become due or payable during the continuance of said interlocutory decree, and each and every of such payments so declared not to become due or payable during the continuance of such interlocutory decree, shall be postponed for the time such decree continues in force and, during the continuance of said decree, no action or suit or proceeding of any kind shall be brought or entertained or further prosecuted in any court, State or Federal, to obtain a judgment upon any indebtedness so postponed of said municipal corporation or to enforce the collection of any judgment thereon against such municipal corporation or to enforce any levy of taxes for the payment of any such indebtedness or judgment or levy of taxes.

"SEC. 6. Within ten days after the making and entering of such order, or such further time as may be allowed by the court, the said municipal corporation shall file schedules setting forth the character of and amount of its separate classes of indebtedness and, upon the filing of said schedules, the clerk of the court shall cause to be published in a newspaper of general circulation published within the limits of said municipal corporation, a notice, to be published once each week for three successive

weeks, of such petition and order and the filing of schedules, and, upon the final publication of said notice, the court shall fix a date for a final hearing upon said petition and, at said final hearing, any party in interest may intervene and may be heard by the court in opposition to such petition, and the court may hear evidence upon the fact of insolvency as defined by the provisions of this chapter, and, upon such final hearing, the court shall grant a decree as hereinafter authorized, or may dismiss the petition.

"SEC. 7. If it shall be adjudged on final hearing by the said court that said municipal corporation is insolvent as defined by the provisions of this chapter and that a decree should be entered upon said petition, such decree shall provide that for a period of not exceeding two years from and after the entry of such decree all payments of interest or sinking fund payments or payments of principal of any indebtedness of any such municipal corporation, except unfunded indebtedness for operating expenses incurred or accrued within the current fiscal year of such municipal corporation, except unfunded indebtedness for salaries of employees or officers of such corporation, and except unfunded indebtedness representing the furnishing of supplies for welfare relief, shall not become or be due or payable during the continuance of said decree, and each and every of such payments so declared not to become due or payable during the time said decree remains in force shall be postponed for the time mentioned in the said decree, but said indebtedness shall in no other way be affected or changed as to its terms, and said court in its said decree shall reserve further jurisdiction over said decree, and from time to time any party interested and entitled to appear may apply to the

court for an order setting aside or suspending the said decree on any change of circumstances as to the financial condition of such municipal corporation, and the court may, from time to time, grant a further extension of the period of postponement mentioned in said decree, not exceeding two years for any such extension, and all such extensions from time to time shall not exceed a total period of postponement of more than ten years and, during the existence of said decree or any extension thereof, no payments of interest that might be imposed by any statute or that otherwise might become payable by reason of any statute shall bear interest.

"SEC. 8. At any time while any such action may be pending, the court, on application of any party interested, may direct the proper officers of such municipal corporation to apply any funds to which such municipal corporation may become possessed and which may not be required for the reasonably necessary and economical operating expenses of such municipal corporation, its requirements for welfare relief, and the payment of such portion of its indebtedness as is not postponed by such decree, to the satisfaction, or partial satisfaction, of the indebtedness which is postponed by such decree, in accordance with the equities of the several creditors of such municipal corporation and having regard for any liens which would have existed on said funds but for said decree.

"SEC. 9. After the filing of such petition no court shall have power to entertain any action upon any indebtedness of the said municipality that may be suspended by the said decree, and no court shall have power to appoint a receiver of said municipality

so as to interfere in any way with the jurisdiction and decree of the said Federal court having jurisdiction over such indebtedness under this Act.

"SEC. 10. No appeal may be taken from the said interlocutory decree, but appeals from such final decree and from any order or decree entered under section 8 hereof may be taken and allowed in accordance with the provisions therefor in the bankruptcy act, and such appeals shall be governed by the practice regarding appeals in such bankruptcy matters. The interlocutory decree provided for in this chapter shall not be considered or held to be a restraining order or preliminary injunction under or within the meaning of any other statute."

STATEMENT OF HON. FRANK W. MURPHY, MAYOR OF THE CITY OF DETROIT, MICH.

The Chairman. The same bill was introduced in the House. I sent each of you a copy of the House bill. It is the object of this bill to amend the bankruptcy proceedings so as to permit a municipality to come in under the provisions that are set forth in that bill.

Senator King. They will have to make a very good showing on that.

The Chairman. I have invited the mayor of Detroit and his attorney to appear here this morning.

Senator King. If that is the attitude of municipalities, I think it would be a good idea to have their charters revoked and the States again become Territories.

The Chairman. I recognize that this is an extraordinary proceeding, and it can not be done unless we have practically unanimous consent.

The Chairman. Mr. Mayor, you may proceed with such statement as you desire to make.

Mr. Murphy. Mr. Chairman and gentlemen, I should like to say that there is no element of repudiation in this. There is no default. It was written in the attempt to avoid that sort of thing. This bill is the result of a conference that was called in Detroit the day after the bank holiday was announced. On that day I called together a group of business, industrial, professional, financial and governmental leaders in Detroit. This bill is the result of that conference. Because of the situation we called in the best legal talent we could get in the city and in the Northwest, from Chicago, to draft this bill. The only reason we have brought it to the Senate and to the Congress at this late date is because we know it is either the adoption of this bill or default. It is one thing or the other.

It has been advocated by many men, some in the Senate of the United States, some of our great statesmen, that the large cities should not undertake to pay their debts. The city of Detroit has opposed that policy thus far. We have never defaulted. We have kept our credit as good as it could be kept, and we do not now want to repudiate. This bill does not contemplate any repudiation at all. It seeks an orderly process by which we may be given the opportunity to reorganize, and it is made completely necessary by the present banking situation.

The Senator mentioned the attitude of some States and cities in the South. The condition we are confronted with now is one quite beyond our control. He says, if the States and cities can not take care of

themselves, their charters should be revoked. The fact is, there is nothing further that the city of Detroit can do to take care of itself. We have gone along with the idea of taking care of our own difficulties. We have not had recourse to the State legislature or to Federal relief. We have made effective every economy that we could possibly think of. That is evidenced by the fact that $28,000,000 have been cut out of the operating costs of government in two years and four months. There is no commercial business in the city of Detroit that can make a better showing than the government of the city of Detroit. More than 10,500 employees have been laid off or let out. Our school teachers and firemen and police have been cut three times, a total of 28 1/2 per cent.

Yet, under our charter requirements and the laws of the State, if we settle up our debt obligations 70 per cent of the amount derived from taxes would have to go to pay debt charges. Our people will not stand for that. Dissatisfaction is growing rapidly. The tax delinquency is 36 per cent of the total. If we continue to have to pay 70 cents out of the dollar on debt obligations, it will be much more than we can realize, and it will mean a complete break-down. It just can not be done.

Senator Vandenberg. How much of your dollar is required for service charges, such as police and fire protection and education?

Mr. Murphy. It would be something around 28 per cent.

Senator Bratton. Does that same proportion hold good with respect to help and welfare relief?

Mr. Murphy. Yes, sir; even worse in some degree.

Senator Bratton. Why is this bill confined to cities of 50,000 or more, with indebtedness of $1,000,000 or more?

Mr. Murphy. We felt a line ought to be drawn, we felt that perhaps the Congress would insist on a line somewhere. We drew it along these lines for that reason. A city like Detroit has some very perplexing problems, due to the heterogeneous population. We have a very large Negro problem. We have from 130,000 to 150,000 colored people in Detroit. That has its social aspect. They are the last to be hired and the first to be fired. They have no work in Detroit.

Then we have a large communistic population. We have a large problem in respect to the foreign group, which has particularly trying social problems. We have the problem of labor and the like, that smaller communities do not have. They have more of a homogeneous population. That is why we drew the line as we did.

May I say just this, Senator: The banking situation has made this crack-up. It is not the Government. The government of the city of Detroit has kept itself going through this whole thing, as have the governments of many other large cities, although to date 678 American cities have defaulted, but not one of the first ten has as yet. A couple are about on the brink of it, but 678 cities, fairly large cities, like Akron, Atlantic City, Atlanta, Pontiac in our own State, and others have defaulted.

What has the banking situation done to us? In the first place, it tied up our funds. We have some

four or five million dollars in the banks. We are in the same position as other creditors. It is possible, through the Director of the Currency, or some legislation that may be enacted, we may be able to withdraw it; but if it is, which is problematical, it will not help us to solve our problem because it is inadequate. We have four or five million dollars in the banks. Between now and the end of the year we will have $9,000,000 of maturing obligations and interest, and we will have $18,000,000 of pay roll.

How are we going to meet that? We are going to meet that by an arrangement we have worked out with industrial and financial leaders in Detroit, and set up an organization that is to make certain economies, which have been made, amounting to $7,000,000, and an issue of $20,000,000 bonds, tax anticipation bonds, for which they would subscribe. That would carry us through to the end of the year. It would meet our tax delinquency problem.

As a result of the bank crack-up, not only what we have in the banks is tied up, but the market has been completely destroyed. Every one of those industrial and financial leaders now say they are not in the market for bonds and they can not take $20,000,000 of bonds that I referred to. Their own problems are so distressing that it is out of the question. They have notified me already that it can not be done.

Senator Bratton. This banking situation is apparently spreading into cities of smaller population than 50,000. That being true, why should not this measure be extended to smaller cities?

Mr. Murphy. We have no objection. We thought perhaps you would have.

The Chairman. Mr. Mayor, what objection would there be to this bill if we struck out section 2?

Mr. Murphy. None from us.

The Chairman. I agree with Senator Bratton that, unless there is some reason to the contrary, I do not see why it should not extend to all municipalities. If we strike out section 2, that we would be the effect of it.

Mr. Murphy. We would have no objection at all. It was just a matter of being conservative that it wou [sic] put in there. Perhaps it ought to be out.

Senator King. Do you care to analyze and state the effects of it, if it should be enacted into law, upon those who hold these securities, such as widows and orphans and insurance companies, small investors who have heretofore relied upon municipal securities as being safe and sound; the effect upon those whose income might be entirely cut off, because all they have is in these securities; the effect upon insurance companies, and generally upon the credit of corporations and States in the future, as well as the Government? I should like to have you comment upon the ability of municipal corporations to go upon the market and borrow money. If we set an example that will permit them to repudiate or compose their differences, or resort to the courts to avoid payment, is it not going to make it impossible in the future until there is a tremendous change in conditions, to sell corporate securities?

The Chairman. Before the mayor answers that question, I would like to suggest to Senator King what I think is the object of the proposed legislation. Under ordinary conditions, while this does not do it

that way, the orderly course would be to appoint a receiver to take care of the financial condition of the municipality, the same as an individual, when it can not pay its debts, to try to conserve the property for the payment of all the debts and prevent the financial breakdown of the municipality and a multiplicity of suits.

In other words, how would the widows and orphans get their money? How would the insurance companies get their money? How could anyone, any person, any corporation, get money from the city if the city could not pay it, and if the taxpayers were not able to pay their taxes? Certainly, it seems to me the purpose of the bill is to preserve the rights of the insurance companies and the rights of all these creditors, and keep the city running. Otherwise, they would have to discharge the police and firemen and do away with the schools, hospitals, and everything of that kind.

As I understand it, the object of this bill is to conserve the very thing you are afraid of and that I am afraid of. The object is to keep the city running, and permit it to operate its police and fire department, and its schools, its hospitals, its welfare relief, and all those things. Otherwise, there would be a condition of chaos, and the very thing that you want to conserve would be destroyed.

Senator Hastings. Mr. Chairman, is this an open meeting?

The Chairman. No.

Senator Black. Is there any reason why it should not be?

The Chairman. I do not know of any.

Senator Hastings. There are some gentlemen here from Florida who are interested in this bill.

The Chairman. Open the door and let them come in. Let anybody come in who wants to come in. We will go into executive session as soon as we conclude the hearing.

Now, Mr. Mayor, you may proceed.

Mr. Murphy. The credit of the country has been very seriously impaired, and the situation is growing worse every day. That credit has been affected by the banking situation, very largely, along with a number of other things. At present, with a bank holiday declared in seven States, including the last few days, the last few hours, and five additional States having passed restrictions upon withdrawals, it is not extravagant to state that the situation will become more aggravated within the next few days. You have a very critical credit situation, anyway, no matter what you do. Now, you are at the point where you are compelled to choose between default on the one hand, and the passage of a bill like this on the other—a bill which will preserve the rights of creditors as well as of the Government.

Suppose we go into default. There isn't anything that is objected to under this bill but what will be much worse under default. What will happen if Detroit should default? First, it will spread to other large cities. There is no private business in Detroit that will not be affected.

Second, we may assume that bondholders will assert their rights and begin lawsuits against the city of Detroit and bring mandamus proceedings to compel the collection of taxes to pay bondholders,

attachment proceedings to gather in the property of the city. There would be a multiplicity of lawsuits. The best proof of what would happen in a case of default is what has happened in other large cities where default has taken place.

Senator Bratton. Under the laws of Michigan can the property of a municipality be attached?

Mr. Murphy. Some of it can.

Senator Bratton. For the payment of debts?

Mr. Murphy. Yes; I think it can.

Senator Bratton. Ordinarily, the exclusive remedy is by mandamus proceedings to require the levy of tax and the collection of the money? Is not that true in your State?

Senator King. I think it is uniformly true that you can not seize the property of a city for the payment of debts.

Mr. Murphy. I think there is some. I think I have been given an opinion by the corporation counsel that some of it is subject to that.

The Chairman. A creditor could not levy on a fire wagon or anything like that, I presume?

Mr. Murphy. No; but the municipalities' own railways might be seized.

The Chairman. It would be the duty of the judge to issue a mandamus to compel the levy of the tax, but what will you do if the people do not pay the taxes? There can not be any mandamus issued to compel a man to pay his taxes. You can sell his property, it is true, but you can not get any money. Nobody will buy it.

Mr. Murphy. I have asked my friend, Mr. Zimmerman, who was associated with Mr. Zane in drafting this bill, to come here with me to discuss these legal questions.

Senator Black. You spoke of suits being brought against large cities. It is true that small towns are also being sued, is it not?

Mr. Murphy. That is true. But suppose the pay roll is stopped through mandamus proceedings. Suppose we default in our obligations. The credit of the city is gone, under the statutes of some States, for 25 years. I think that is the requirement in New York State. Our credit will have been destroyed for 25 years, as the law stands at present.

Senator King. You would be forbidden to sell bonds for 25 years?

Mr. Murphy. Yes; in that State.

The Chairman. The State could repeal that law, of course.

Mr. Murphy. Yes.

Senator Austin. That is one of the protections that surround 11 these securities to-day. That would be removed.

Mr. Murphy. That is one reason why we do not want to see any default.

Senator Hebert. If this bill passes you would be in the same situation, so far as securities are concerned, as you would in the case of default, to all intents and purposes, and your bonds would no longer be legal as investments for savings banks and similar concerns.

Mr. Murphy. I do not believe that would be true to the same extent as a defaulted bond.

Senator Hebert. But the bonds would be defaulted undar this bill.

Senator Bratton. Oh, no. On page 4, line 16, it provides that the obligation shall not become due or payable during the continuance of the interlocutory decree.

Senator Hebert. But you can not legislate here against the laws of a State fixing legal requirements for investment of fiduciaries.

Senator Bratton. I think that is one very serious question of the constitutionality of this bill. If the bill is valid, however, if it can be enacted under the Constitution, then the bonds will not become due or payable during that period of two years. The maturity date is automatically postponed. All those things depend upon whether this legislation is constitutional.

Senator Black. May I ask you a question which is a little out of line?

Mr. Murphy. Certainly.

Senator Black. The suggestion has been made that the adoption of this legislation would perhaps make it a little more difficult for the city to borrow money in the future. I do not subscribe to that as an objection. I think that would be an advantage. How do you feel about the idea of making it more difficult for cities or municipalities to borrow money?

Senator King. You would have to curb the appetites and the demands of the people.

Mr. Murphy. It would make it more difficult, anyway. What we want to do is to keep our Government running.

Senator Black. I understand that.

Mr. Murphy. None of these large cities would be able to do that during the next six months or two years. A great many of them could not pay their obligations.

Senator Black. I fully agree with that. There are not many individuals or municipalities or cities or States that can pay their debts at the present value of the dollar, under the present conditions. Do you not think it would be to the advantage of these municipalities to make it more difficult to go in debt in the future?

Mr. Murphy. I think it would be beneficial if they could not go in debt in the future as they have in the past.

Senator King. We should observe the wise admonition of Benjamin Franklin.

Mr. Murphy. It is just a question of choice between default and orderly process. We have got to preserve the functions of government. We have 209,000 people on the public welfare roll. Two hundred fifty or three hundred families make application daily to go on the roll. Forty thousand of those on the welfare roll are children. That situation is rapidly growing into new stages. After three years of struggle these people have reached bottom in every way, by being kept on the welfare roll during that period instead of work being planned for them. I can not impress upon you gentlemen how serious it has become.

Senator Black. What percentage of the population is that?

Mr. Murphy. There are about a million and a half people in the city of Detroit.

Senator Black. And how many on the public welfare roll?

Mr. Murphy. Two hundred and nine thousand.

Senator Black. And how long have they been on it?

Mr. Murphy. Many of them two and a half years.

Senator Black. In your judgment, what would be the course the city would follow, if no legislation such as this, or similar to this, is adopted, so far as Detroit is concerned? What is the picture we must anticipate?

Mr. Murphy. Not only for Detroit, but for other cities, it is open default. It is all entirely due to the banking situation. That hag destroyed the bond market.

Senator Black. After that, what is next?

Mr. Murphy. Just a chaotic condition brought about by all these various lawsuits, by pay rolls not being met, closing the schools, closing the welfare relief work, closing the health department and other similar services, the complete disruption of the municipal government.

Senator King. Mr. Mayor, has your State legislature attempted to deal with the situation? If it has not, in your judgment and in the judgment of your legal advisers, might that not ameliorate the situation?

Mr. Murphy. To a small degree. The State has not done anything much. The State has serious problems of its own to deal with, the large industrial population, the automobile cities of Flint, Pontiac, and Detroit. The help we can get from the State now is largely theoretical. It would be through an amendment to the constitution, which would require a referendum to the people, which, of course, might result in help in due time; but with conditions growing increasingly worse, there is a question whether the people would vote for it, which is one question, and another is, it would come too late to be of any value. In theory, it is all right; in practice, it is not.

Senator Black. Have you any figures as to how many people are out of employment in addition to the 209,000 to whom you referred as being on the welfare roll?

Mr. Murphy. Yes, sir.

Senator King. By that do you mean those who are now capable of employment?

Senator Black. Yes.

Senator King. And who are not now employed?

Senator Black. Yes. What is the figure you have?

Mr. Murphy. There are only about 30 per cent of the people of Detroit who are working at present.

Senator Black. About 30 per cent of the people have work?

Mr. Murphy. Yes.

Senator Black. Of those who usually work?

Mr. Murphy. Yes.

Senator Black. About 70 per cent have no work.

Mr. Murphy. Of the wage workers.

Senator Black. How are these people being supported, in addition to the 209,000 who are on the welfare roll?

Mr. Murphy. They are making personal adjustments. They are assisted by their neighbors or friends, by the churches, racial and private charity groups. Detroit has lost in population a quarter of a million in the last two and a half years.

Senator King. They have gone into the country?

Mr. Murphy. Into small towns and on to farms. These people now in the city of Detroit are being supported on a basis that is a disgrace and never should be permitted. It is purely a makeshift condition that was never meant for anything more than a month or two. You can not keep a family on $4.60 or $5.20 a week, over a long period of time. The present ratio of undernourishment among children has jumped from something like 5 or 6 per cent in 1929 to nearly 20 per cent in many districts of Detroit at the present time. The definite pathological evidence of this prolonged depression is finding its expression, particularly now, in more ways than one.

This bill takes nothing from the Government of the United States. You do not have to contribute a thin dime. It does not impair the integrity of the Federal Government. We can not do anything more injurious to the credit of the Nation than the banks have already done. It just gives us respite. It gives us a holiday for the purpose of reorganizing the Government, which the United States has always

given to private business. We have these obligations of preserving the health and the lives of the people in our community, and the welfare of our people, which is far more important than the reorganization of the banks or railroads or private individuals.

This will give us a breathing spell. There is no repudiation involved. We will pay 100 cents on the dollar. We will work it out. The creditor will eventually receive every dollar that is due him. There is no objection you can make in the interest of insurance companies and bondholders that would not be worse if this is not done.

This is not a thoughtless piece of legislation. We have gone into it and worked day and night on it, and we know it is inevitable. While I am not speaking for the mayors of America, I was elected to an office in their organization here in this city 10 days ago. This bill was not before them, because the banking situation that now exists had not then arisen. It has arisen since then. It is spreading more rapidly than might be believed, and will probably grow faster. This will stabilize the situation, as far as the Government is concerned. It will continue the functions of government along proper lines.

Senator Bratton. I assume that you have had some contact with bondholders who are holding bonds of the city of Detroit. Can you tell us what their attitude is in regard to this legislation? Do they favor it or not?

Mr. Murphy. I am unable to speak for any great number of bondholders. That is why I want to be conservative about this. I do know several large bondholders who favor it. In addition to that, I may

tell you that the largest individual holder of Detroit municipal bonds, who is a gentlemen whom you all know, told me that the first thing the Government ought to do in Detroit is to protect its service and give the preference to the Government and let the bondholders wait. He has not had a chance to look at this bill, although I expect to receive a message from him to-day.

Senator Hastings. Have you stated what is the total indebtedness of Detroit?

Mr. Murphy. The entire indebtedness is about $405,000,000. The bonded indebtedness is something over $360,000,000.

Senator King. The other is floating indebtedness?

Mr. Murphy. Yes, sir.

Senator King. The difference between the bonded indebtedness and the aggregate amount you stated is floating indebtedness?

Mr. Murphy. Yes; it is. The picture I am drawing here is not peculiar to Detroit. I have been in conference with mayors of various cities. For instance, our tax delinquency at present, is 36 per cent. Out of a total of $72,600,000, we have a tax delinquency of $28,000,000 for the year. Go into our neighboring city of Milwaukee. There Mayor Hoan says the tax delinquency of Milwaukee at present is over $40,000,000.

Senator King. Although Milwaukee does not have any debt, as I understood some time ago. It is one of the few cities in this country that seems to have preserved its sanity during this orgy of speculation.

Mr. Murphy. I understand that is true.

Senator King. And it has a Socialist mayor.

Mr. Murphy. Yes, sir. It has had the same very able and competent mayor for 18 years. It is in a very good position in that way, although Mayor Hoan thinks a serious problem is confronting them now due to its $40,000,000 tax delinquency.

Senator Black. Mr. Mayor, you have had the cooperation, as I understand it, of the committee in Detroit representing the best industrial thought of the city, in respect to the municipal financial problems. I think it might bear upon the general attitude if you could state whether or not that committee favors this legislation.

Mr. Murphy. Yes; in my opinion that committee does favor it. I have not canvassed all of them. I want to say that the industrial group in Detroit during the past year has taken a new and very cooperative attitude toward the matters of government. As they have seen these problems become increasingly distressing, this group has been very helpful. I can say that Mr. Alfred Sloan, a prominent leader in that group, approves of this bill.

Senator Black. And you think we would be justified in believing the committee approves of the bill?

Mr. Murphy. I do. Moreover, while I said at the outset that I do not speak for the mayors of those cities, in my opinion, if they had the chance to see this, they would be unanimously for it.

Senator Black. Will you state, because I think it is important, why action is desired to be had on this bill, in your judgment, within the next 24 hours,

rather than to wait three or four weeks when it could be more competently handled in the special session?

Mr. Murphy. There are two reasons. The first is that the budget is now, under the charter and law of the State, being fixed; that before the next session, the special session, this will have to be set up, in an amount that will include the 70 per cent debt obligation; that to do that will probably require special legislation; and there would be other obstacles in the way.

Second, in my opinion, there would probably be default in a large number of cities unless it is passed at once.

Senator Black. Do you think there is any danger of default within the next six weeks?

Mr. Murphy. We might get through that long, but it is very doubtful. The situation in Detroit now is such, when the banks are unable to pay their depositors, that the reasoning is this: Every one says, "If the banks can't pay their depositors, I am not going to pay this bill." Our whole set-up has been disorganized, and we find it very difficult to meet our immediate requirements. With the market destroyed, you can readily see what that is.

Senator Hastings. Do you know anything about the conditions existing in the various three thousand-odd counties in the country, whether any of them are in a similar position?

Mr. Murphy. I do not know much about that, Senator.

Senator Hastings. Do you know whether those who have considered this bill have considered

whether it is possible to include the counties as well as municipalities in this legislation?

Mr. Murphy. That could be answered by my associate. I think not. In the large municipalities we have problems of welfare to take care of that counties do not have.

Senator Hastings. That is also true in many counties.

Mr. Murphy. Not to the degree it is in the cities.

Senator King. Is not your city somewhat sui generis because of the heterogeneous population, the increasing racial groups that you find in these large manufacturing centers? Is not your city rather different from most other cities and from counties and quasi manufacturing sections?

Mr. Murphy. Well, it has been more serious, but we have done what we thought was the right thing. We did not let this go as a matter of private charity, but undertook to handle it as a matter of government. That is the right thing, and it is more economical, too. There is no private charity, never has been, that is equipped to handle that kind of situation as it should be.

Senator Hebert. What is your total tax income?

Mr. Murphy. As to the percentage?

Senator Hebert. No; the amount.

Senator King. About $73,000,000, is it not?

Mr. Murphy. Yes.

Senator King. Was it balanced or unbalanced?

Mr. Murphy. It was balanced a year ago.

Senator Hebert. What was that income, your total taxes income, in 1932?

Mr. Murphy. The total tax income in 1932, was about $58,000,000.

Senator Hebert. You got 70 per cent of that?

Mr. Murphy. No. We got all but about 25 per cent of it. Our tax levy was $76,000,000, and we received all but 25 per cent. Our tax levy for the current year was $72,600,000; 36 per cent of that was not received. The year before that the tax delinquency was 13 per cent, and the year before that 9 per cent. In four years it has increased from 9 per cent to 36 per cent, and unless relief is granted there may be a complete breakdown.

Senator Hastings. What are your annual expenses?

Mr. Murphy. About $72,000,000.

Senator Hastings. Without interest or with it?

Mr. Murphy. With the interest.

Senator Bratton. You actually collected about $52,000,000 of revenue last year?

Mr. Murphy. Yes.

Senator Bratton. What part is interest and payment on debt each year?

Mr. Murphy. It went as high as $32,000,00 in the last two years. It remains that way for the next four years. After four years it goes down, after it passes the peak. I think you will find that tne operating costs of the city of Detroit are perhaps by far the lowest of any large city in this country. We have a nonpartisan government there.

Senator Bratton. Does the $32,000,000 represent interest and sinking fund?

Mr. Murphy. Yes.

Senator Hastings. What is the tax rate?

Mr. Murphy. $2.27, I think, at present; but during the last year and the year before there has been a 10 per cent cut in the assessed valuation, which has driven the tax rate up to $2.27. People do not pay any more, but the rate goes up as the assessment goes down.

Senator Hebert. The city operates the street railway system; does it not?

Mr. Murphy. Yes, sir.

Senator Hebert. Is that a paying or a losing proposition?

Mr. Murphy. The street railways are municipally owned. It has been a very satisfactory investment and has worked out splendidly. When I became mayor two and a half years ago, for a period of nearly two years there had been a deficit of a quarter of a million dollars each year, due to factories being closed and nobody riding on the street cars. With our fares constantly going down, with the lowest street railway fare in the United States, 6 cents, that quarter of a million dollars has been wiped out, and to-day we are almost in the black. It is just a few thousand dollars each month. There is no private street railway that is doing any better than this municipally-owned street railway is doing.

Senator Austin. How much does your bonded indebtedness requre as a sinking fund?

Mr. Murphy. I can not tell you that.

Senator Austin. Have you kept your sinking fund provided for?

Mr. Murphy. Yes; we have.

Senator Austin. And you have a reserve?

Mr. Murphy. No. It is exhausted right now.

Senator Schuyler. Are the schools included, or do you have separate bonds for school districts?

Mr. Murphy. They are subject to a separate bond issue.

Senator Schuyler. This bill would not relieve the situation of the schools, would it?

Mr. Murphy. Yes; it would. The school budget is in our city budget.

Senator Schuyler. And it is included in the total bond issue?

Mr. Murphy. Yes; that is right.

Senator Bratton. Has the city defaulted in its bonds up to date?

Mr. Murphy. No; the city has not defaulted in any respect in 100 years.

Senator Hastings. You have mentioned the figure of approximately $72,600,000 as the tax levy. If it could be all collected, would it be sufficient to pay the running expenses of the city, pay interest on the bonded indebtedness plus the sinking fund?

Mr. Murphy. Yes.

Senator Hastings. Your difficulty is due to the fact that 36 per cent of the taxes have not been paid?

Mr. Murphy. Yes; in part, and the fact that you can not make up that delinquency by issuing bonds.

You can not borrow. That is gone. The banks have done that.

Senator Herbert. You have $360,000,000 of bonds outstanding?

Mr. Murphy. $363,000,000,1 think.

Senator Hebert. What proportion is represented by bonds issued to secure title to the street railways?

Mr. Murphy. I think none.

Senator Hebert. How was that acquired? Was it acquired by taxation?

Mr. Murphy. No, sir; it is a self-sustaining, operating unit. It is not in the tax budget.

Senator Hebert. How did the city acquire title to the street railways? It purchased them, did it not?

Mr. Murphy. Yes.

Senator Hebert. How did the city pay for those street railways?

Mr. Murphy. Senator Couzens can tell you that. He was the author of it. It paid for it out of the earning of the railways.

Senator Hebert. And there is no indebtedness of the street railways?

Mr. Murphy. Yes; there are street railway bonds.

Senator Hebert. Those are city bonds, are they not?

Mr. Murphy. Yes. The faith and the credit of the city are back of them.

Senator Hebert. How much is that?

Mr. Murphy. I couldn't tell you.

Senator Hebert. Is that included in the $363,000,000?

Mr. Murphy. It is not. It is not a large amount, and we feel that the affairs of that department are in quite satisfactory condition.

Senator Vandenberg. Would those bonds be covered by this bill?

Mr. Murphy. I do not believe so.

Senator Black. If you needed money for that, I assume, you, like a private institution, would come to the Reconstruction Finance Corporation and borrow money.

Mr. Murphy. Not unless they had an amendment to it.

Senator Black. They would not let you borrow it?

Mr. Murphy. No.

Senator King. Is the railway operated as a separate corporation or as a part of the municipal government?

Mr. Murphy. It is a part of the municipal government.

Senator King. You preserved the entity of the corporation as a railroad corporation?

Mr. Murphy. That is right.

The Chairman. I suppose the city is the owner of all the stock.

Mr. Murphy. That is right.

The Chairman. So that it is a separate corporation, as though it were privately owned?

Mr. Murphy. Yes, sir.

The Chairman. The city owns the stock.

Mr. Murphy. Yes, sir.

Senator King. The city sold bonds to buy the stock in the corporation. Is that right?

Mr. Murphy. I don't know about that.

The Chairman. I understand that the bonds were issued by this corporation, which is owned by the city, and the city guarantees the bonds. I may be wrong about that, but I think that is correct.

Senator Robinson of Indiana. What was the origin of this particular suggested legislation? Has it been definitely decided upon by any considerable number of mayors that this is the best way to relieve this particular situation?

Mr. Murphy. No. There has not been any decision by the mayors that I know of. They were in conference here 10 days ago, and the day after our conference ended the moratorium was declared in Michigan. They didn't have a chance to discuss it. They were all in straitened circumstances and all petitioning for help at that time.

Senator Robinson of Indiana. Is this simply for the purpose of relieving the Detroit situation, or will it remedy the situation that exists in all the cities throughout the country? Is this the best way to reach all of them?

Mr. Murphy. It is the best way to reach all of them.

The Chairman. The bill is general. It applies to all municipalities, except that in section 2 it excludes cities of less than 50,000 and having less than a

million dollars of indebtedness. I think we should strike that section out, so there will be no limitation.

Senator Black. Do you know of any way, under this bank moratorium, by which these individuals or cities can go ahead and pay their debts?

Mr. Murphy. No, sir; I do not. It has come to a point now where the credit of large cities has disappeared. For the bare necessities of life, such as a ton of coal or food, people who are not on the welfare roll have to pay cash to get. That is the particular thing that is bearing on the citizens of America at this moment.

The Chairman. That is the situation in Washington now. One bank has put a limitation on withdrawals. I have had more than a dozen instances called to my attention yesterday afternoon and this morning. People had the money in the bank and wanted to pay their rent, but could not pay it. My attention was called to cases where the interest was due on the mortgage, and in some instances the mortgage itself was due, or would be in a few days; they had some money in the bank to pay it; had saved it up for years. Now comes this 5 per cent rule and there is nothing to save them from being put out on the street, under the foreclosure law of the District of Columbia, although they have the money in the bank and have made sacrifices for years to get it.

Mr. Murphy. May I ask that you hear Mr. Zimmerman for a moment?

The Chairman. Yes.

Mr. Murphy. He might answer some questions that Senator King has in mind.

Senator Black. Has the city any money in the bank?

Mr. Murphy. About $5,000,000.

Senator Black. You can not sue them and put them to any cost.

Mr. Murphy. No. We are in no different position than any other depositor.

It is either default or this. Conditions will get worse in every respect.

Senator Vandenberg. I am sure the committee would want to know Senator Couzens's view of this legislation, inasmuch as Detroit is his Lerne city. I think it is fair to say that we have contacted Senator Couzens and are awaiting a telegram from him on the subject.

The Chairman. I would like to ask if there are any objections from members of the committtee in the event a telegram is received from Senator Couzens, to incorporate it in the record?

Senator King. I think that any data that comes in on this subject should be incorporated in the record.

The Chairman. Very well. If any telegram comes from Senator Couzens, it will be incorporated in the record at this point.

Senator King. Is Senator Couzens in Detroit now?

The Chairman. He is in Detroit now in connection with the banking situation.

It is fair to say that the corporation counsel of Detroit, Mr. Clarence Wilcox, is a man of very

powerful standing in legal circles and otherwise. May I ask you, Mr. Mayor, whether he has seen and approved this draft?

Mr. Murphy. I took up this bill in detail with Mr. Wilcox. He read it carefully, made notations about it, and gave as his opinion that it not only is constitutional, but that it is desirable and that it met his complete approval. Corporation Counsel Wilcox was originally appointed by Senator Couzens. He was been continued by myself. He is a very able, competent, and faithful public servant.

The Chairman. In respect to that phase of the situation, when I telephoned Senator Couzens last night, he said he desired to obtain Mr. Wilcox's opinion before he notified us in respect to his attitude.

Senator King. He will send that information to Senator Norris?

Senator Vandenberg. I understand he is to send it to Senator Norris.

Senator King. That is the matter just referred to, that the Chairman desired to incorporate in the record?

STATEMENT OF EDWARD A. ZIMMERMAN, CHICAGO, ILL.

The Chairman. Mr. Zimmerman, you may proceed.

Mr. Zimmerman. Perhaps Senator King would like to have me go first into the questions which he propounded.

Senator King. Pursue your own course. I shall be very happy to follow you.

Mr. Zimmerman. I want to point out that in the drafting of this bill it was our purpose, under the direction of Mayor Murphy, to collaborate with those branches of the State government which had the duty imposed upon them of the preservation of the lives and the property of the public.

Senator King. I assume you live in Detroit.

Mr. Zimmerman. I do not, sir. I practice at Chicago, where we also have some troubles with which the Reconstruction Finance Corporation is quite familiar.

Senator Vandenberg. If I may be pardoned for the interruption, I have just received the two telegrams from Detroit which bear upon this question. The first one is from Mr. James McEvoy, general attorney for the General Motors Corporation. I had wired Mr. Hutchinson, who is chairman of the committee to which Mayor Murphy referred. Mr. Hutchinson is out of the city, and, therefore, Mr. McEvoy wired me as follows:

* * *

The Chairman. Under ordinary circumstances, I would be very much in favor of hearing them at length; but if we do anything, it has to be done very quickly. We have only one day in which to do it.

Senator Hastings. I have not promised these gentlemen a hearing. I did not know there was to be a hearing. They came to my office about 5 minutes before 10 this morning.

The Chairman. Let me say further that I am informed that the House Committee on the Judiciary has made a favorable report on this bill. Unless we take action promptly, there probably will be no

chance to enact this legislation. If we go into hearings now on a substitute bill, even though we might think it much better, you know what will happen. We are confronted with a condition that none of us is to blame for, and it seems to me we have got to put this through or let it go down.

Senator Bratton. It is this or nothing.

The Chairman. Yes.

Senator Black. If this gentleman is opposed to it, he might give you his views in 5 or 10 minutes as to why he desires something different.

The Chairman. If the committee desires to hear the gentleman, I have no objection.

Senator Black. I shall be glad to hear him for 5 or 10 minutes.

The Chairman. Yes. I believe we ought to hear both sides.

Senator Robinson of Indiana. I would like to hear what they have against it.

Mr. Zimmerman. I would like to add one thing to the answer I intended to make to Senator King in regard to investments of insurance companies. I am reliably informed that only about 4 per cent of the portfolios of insurance companies contain investments in any municipal bonds. Since that does not include the bonds of school districts, it might be even less, so far as bonds that would be affected by this bill are concerned.

Shall we step out?

The Chairman. No. If we have a further hearing, it will be public.

STATEMENT OF EDWIN H. BARKER

The Chairman. State your name and your occupation.

Mr. Barker. My name is Edwin H. Barker. I am chairman of a bondholders protective committee that was organized about two and one-half years ago to try to correct defects in the financial structure in Coral Gables, Fla. The Senator from Delaware has said we are from Florida. I happen to be a resident of Connecticut and president of a small insurance company. We own a few Detroit bonds. One of my colleagues is a resident of New York, manager and editor of the Bond Buyer, which is the so-called bible of the municipal bond business, accepted by debtors and creditors alike as being one of the real responsible publications relating to such matters. My other colleague is an investment banker.

We have had this matter of municipal default before us and have given it very careful and constant study for the past two and one-half years. It is our confirmed opinion that the difficulty here does not lie within the field of law but within the field of economics. Therefore it is the suggestion of our committee that this body proceed, if it can not provide legal machinery for the meeting of the default, to correct the situation through machinery of this general kind.

Our general counsel, Thompson, Wood & Hoffman, have represented the city of Detroit, and I can say to the mayor and to this body that this committee is very sympathetic with the desires expressed by the mayor in respect to this proposed bill. We believe that the suggestions we have in our bill are the suggestions of the mayor's bill, so they

might be readily combined, and I am inclined to believe they would present a satisfactory bill for this body.

Senator Norris, there are 41 States out of the 48 in which there are to-day many municipalities in default. Therefore, it is not a question of correcting the Detroit situation. It is a question that goes to the very roots of the social structure of this country. Our committee has prepared a rather lengthy brief, but I am sure that Mayor Murphy and his counsel will concur in everything we have said. I laughed at his counsel because he was saying to you our very words, in that we believe that a measure can be enacted that will relieve the Reconstruction Finance Corporation and many other legal relief agencies of the Government of the demands that are being made upon them.

We are, therefore, representing creditors. We have under our control seven millions of bonds, originally owned by these creditors, out of a total of eight million. We have had a plan agreed to by the taxpayers of Coral Gables, Fla., and the city officials. Legislation has been enacted in that State which goes further than is apparently desired in Michigan, for a plan for refinancing that city which we believe is applicable to all cities.

In the case of Florida, the State legislature permits the court to appoint a comptroller of bonds, in the event that a future default occurs, to conserve the interest of the bondholders.

We feel very deeply about this, because we have given it very thorough and careful study and consideration. We have no interest in the city of Coral Gables. We were asked to organize and carry

on this responsibility, because we were recognized as individuals of responsibility and fully conversant with the situation in respect to municipal bonds.

I might say to you gentlemen that the real security for municipal bonds in the majority of instances is simply the pledge of good faith of the people of the municipality. I would urge you strongly to go very slowly in putting into legislation anything which might in the slightest degree prove injurious to that good faith. I am satisfied the city of Detroit or the mayor would take the same position on that subject. I am satisfied that he is correct when he says they will eventually pay 100 cents on the dollar. But that is not the point. It is what the investor thinks about the situation.

Senator Black. I would like to have you state briefly your objections to this bill.

Mr. Barker. It makes mandatory one action before the creditors have had a chance to get together and sit down and discuss the situation and see if they can come together in a voluntary way, in an agreement satisfactory to all. My understanding that bankruptcy is for the purpose of enforcing upon a minority the will of the majority. As I interpret this bill, there is no such provision in the bill. It immediately makes mandatory the action without determining whether or not a voluntary agreement can be reached.

Senator Black. Are you in favor of the principle which would permit a city, in case it is unable to meet its obligations, to go into court and seek relief?

Mr. Barker. I am in favor of protecting the city first, last and all the time; but, sir, there are certain

specific problems that we feel should be taken into consideration.

Senator Black. I want to get your real objection to the bill.

Mr. Barker. Yes.

Senator Black. Do you believe a city should have a right, in case it is about to be sued, or has been sued, as a large number have been, to go into court and seek relief?

Mr. Barker. In principle; yes. We have incorporated that very feature in our bill.

Senator Bratton. Tell us the main features of your bill.

Mr. Barker. At first, before the creditor or the city goes into court, they must have an agreement of 50 per cent of the creditors for refinancing or readjusting the difficulties. If this 50 per cent agree that the city has an honest intent, an honest purpose, but an incapacity to pay, then they may go into the Federal court and ask the court to appoint a day for hearing so all creditors may have their day in court. Anybody representing from 10 to 25 per cent of the creditors should have the privilege of presenting a plan of their own. The judge determines whether or not the plan is equitable. If it is, he can say that 75 per cent of the creditors have agreed to that plan, and he will declare it in effect and force the minority to accept the terms of the majority.

The Chairman. When you refer to 50 per cent or to 75 per cent, do you mean in amount or in number?

Mr. Barker. In amount. We had thought of incorporating something about the number, but unfortunately there are technical complications. We are a committee representing between eight and nine hundred holders of bonds, of which $200,000 belongs to the Brotherhood of Locomotive Engineers, and $200,000 belongs to a women's organization in the mayor's own State. We have $19,000 held by an ex-railroad employee who is living on his pension only. Everything else is gone.

Senator Black. One of the main differences between your bill and the bill now before the committee is that you propose an involuntary system of bankruptcy, whereby the creditors can throw them into bankruptcy.

Mr. Barker. No. We advocate a voluntary system, whereby the city can declare to its creditors: We intend to keep 100 per cent good faith, but right now, because of the conditions, it is impossible to pay, because we can not collect.

Senator Black. The difference is that you want the bondholders to have the right to veto going into court, if 50 per cent object.

Mr. Barker. I would not say "veto," sir.

Senator Black. I am talking about the mechanics of the law. Your proposition would be that before that privilege is granted 50 per cent of the creditors must agree to it.

Mr. Barker. Yes, sir.

Senator Black. Otherwise, they can not go in?

Mr. Barker. Absolutely.

Senator Black. That gives 50 per cent the right to veto that.

Mr. Barker. Yes, sir.

Senator Black. That is one difference?

Mr. Barker. Yes, sir.

Senator Black. Is there any other difference?

Mr. Barker. Let me tell you why that is.

Senator Black. I can see the argument. I would like to know if there is any other difference.

Senator Bratton. Suppose one concern holds 55 per cent of the outstanding indebtedness of a city. It has it within its power to prevent the city from coming into court.

Mr. Barker. Yes; but, sir, as a practical matter, the man who holds out is not the big man. He is the selfish man, who is in the minority. He can come into court now and by mandamus action destroy the property. In West Palm Beach, Fla., where 16,000,000 out of something like 32,000,000 had agreed to a plan, the holder of $300,000 opposed it and by mandamus action completely demoralized the community.

Senator Bratton. Suppose a city has indebtedness in a certain amount. One man owns 55 per cent of those bonds and the other 45 per cent are held by 50 different persons. Under your proposition the one man has it within his power to say whether the city may come into court at all.

Mr. Barker. Yes.

Senator Bratton. And second, if it goes into court, it must do so under a plan agreeable to that one man.

Mr. Barker. No; agreeable to the majority.

Senator Bratton. And to that one man?

Mr. Barker. Yes, sir.

Senator Bratton. The consent of that man is indispensable to the right of the city to even go into court.

Mr. Barker. That is legally so, but I am trying to impress upon you the difficulty in defaults and collection of them. This man who owns 55 per cent is not the man who would prevent the city from coming in. The person who does that is the small individual holder that is actuated by selfish interests and always willing to be a parasite of the larger body. I have been identified with these matters for 33 years. I am not a lawyer. While it may be true from a technical legal standpoint, as a practical thing it is not of any material importance.

Senator Robinson of Indiana. Then what is the advantage of writing it into the law?

Mr. Barker. You misunderstood me. I was answering the question in regard to the bondholder who held 55 per cent of the bonds taking advantage of the situation and refusing permission to the city to go into court.

Senator Robinson. But you say that while it is technically true, it has no practical significance. If that is true, why write it into the law?

Mr. Barker. I think you misunderstood my answer. I was trying to answer the hypothetical case

the Senator brought out. What we are trying to do in our bill is to deal with these people from a practical standpoint.

Senator Robinson. I do not yet see why it is necessary to write it into the law. I do not see why it is necessary to have that in the bill.

Mr. Barker. If you have one holder of $10,000, as against holders of $10,000,000, he would have the right to come in and take up the time of the court and introduce machinery.

Senator Robinson of Indiana. I can see why the creditor should be interested, of course, but in the absence of gross fraud on the part of the city officials, why encumber the law, since it is an emergency matter, pure and simple?

Mr. Barker. What we seek to do is to provide machinery by which an agreement may be made between debtor and creditor. The law should only step in and provide other machinery when those two can not get together.

Senator Robinson of Indiana. In the meantime the city might suffer terribly, the fire and police might be unpaid, no provision for education, no provision for health or anything else.

The Chairman. There is one thing that we are compelled to consider. That is the question of time. Suppose you go on and tell us any other reasons why you are opposed to this bill, and give the features of your bill. I think you can trust the committee when you have done that to consider it carefully.

Mr. Barker. The primary objection to this bill is, first, that it tends, and I am satisfied it will destroy good faith between the investors and the

municipalities. That is the very backbone of the security of municipal bonds. In the opinion of our committee, this bill would tend to destroy the very thing that should be maintained.

I feel that whatever legislation is passed should recognize that, while it may be justified by the emergency, nobody knows how long this thing is going to continue. It would be a very serious thing two years from now to say to the investor: "We have got to ask for two years more." The Senator from Rhode Island mentioned insurance companies. These securities are not only held by large insurance companies, but by fraternal organizations, fire insurance companies. The Convention of Life Insurance Commissioners has arrived at a value which they will permit during this emergency insurance companies to carry such securities on their books. The insurance companies go by what the banker and the lawyer say.

Senator Black. What are your other objections to the bill?

Mr. Barker. I am coming to it. It says in effect that a city can not be compelled to pay interest or principal, if it is due. It is not due. Just saying it is not due does not make it so. It is an admission of inability. It is not due.

Senator Bratton. Suppose a city says it is unable to feed the hungry and pay the interests on its bonds. One or the other can be paid, but both can not. Which should be paid and which should wait?

Mr. Barker. May I answer that in the specific course we have pursued?

Senator Bratton. I would like to have it answered.

Mr. Barker. The city first, always. We have as much confidence in the cities of this country as we have in the investors, and particularly the holders of municipal bonds. Our committee has not taken any legal steps. We have talked to our legal representatives. We entered into an agreement with the city of Coral Gables that they would reduce their operating expenses and keep them within bounds. They have done that voluntarily, from something like $380,000 to less than $200,000.

Senator Black. You spoke of the practical effect of what the bondholders would always do.

Mr. Barker. Yes.

Senator Black. They are now preparing to file 21 suits against municipalities in Alabama.

Mr. Barker. Yes.

Senator Black. That has been done by one group of bondholders.

Mr. Barker. Because there is no other legal machinery provided. If you would provide the machinery, you could stop such suits.

The Chairman. Let us look at the practical situation that confronts us. The Senate will be in session only one more day. We have got to have action by the Senate and by the House. Suppose we start out now in an attempt to make amendments to this bill, now are we going to do it?

Mr. Barker. Could you allow the attorney and me to get together and amend it?

The Chairman. Assume that we do and the House does not. I do not want you to get the idea that I am trying to belittle your argument. It is very interesting. But if we consider any amendments such as you have proposed, it may be fatal to this legislation. It has to be done by unanimous consent. Those who find something in it they do not like will either have to kill it or let it go through.

Mr. Barker. I am thoroughly convinced that you want to do the right thing.

The Chairman. Could you not briefly enumerate your objections without stopping to argue them? If the objections are stated, the committee will be able to appreciate the argument.

Senator Hastings. Have you not stated all your objections?

Mr. Barker. Just the two.

The Chairman. Have you any others?

Mr. Barker. No.

The Chairman. What about your bill? What does it provide?

Mr. Barker. It makes it possible to create machinery whereby a Federal court can authorize a plan whereby the property of a city which can pay a tax is divided into two parts. One class under consideration would be determined by competent authority, real-estate men, for instance, who would determine whether the real estate of the city could support a tax. They might find it could support a tax representing 40 per cent of the total taxation. The balance of 60 per cent would have to be provided for out of other property. They determine whether it is

of value sufficient to meet the interest on that date. That is put in as a contingent date.

Senator Black. Just give us in effect the result of your bill, as you view it.

Mr. Barker. In our opinion, it will give real relief to the city. It will readjust its difficulties in a practical way. We know they can not collect 100 per cent. I know of a building in New York City, and I am very familiar with New York City, which has 50 per cent of its office space rented. That building can not pay a tax proportionate to its $25,000,000 cost. Our whole system of taxation in respect to real estate has been based too much upon the cost of buildings. In respect of homes it is different.

Our plan divides the taxing ability and the tax-collecting ability into two parts, and out of that will develop a situation that, in our opinion, will afford real relief to a city.

Senator, I wish I had the time to go into this more fully. It has been tested. The vice president of a large institution in Cleveland was invited by the Brotherhood of Locomotive Engineers to go into the situation. They owned $200,000 of these bonds. He came to New York and had a conference with us and studied it. He says this is the only plan, in his opinion, that reaches the heart of this thing, and in a practical way will correct municipal defaults.

Our plan has been carefully studied by the representative of a large bank in New York, which reported that this is a plan that will relieve the situation. We have not been able to put it into effect because we can not get the selfish minority to come in. That is what our bill provides for. It places the

responsibility on individuals, where it belongs. The responsibility for adjusting debts is between the debtor ana creditor. All we are asking is Federal legislation that will permit that to be done by those who are willing to do it that way, which is the majority of those interested.

Mr. Zimmerman. May I ask a question?

The Chairman. Yes.

Mr. Zimmerman. Do you find anything in the bill which has been reported out of the Judiciary Committee of the House, and which has been introduced in the Senate and is now before this committee, that is inconsistent with the measure that you propose to the extent that you would be unwilling to allow the adoption of the pending bill, and then come in at the next session, where you would have a great deal more time with your proposed amendments along the lines you are now proposing? Is there anything in this bill so objectionable that you would not be willing to permit such a course to be taken?

Mr. Barker. If you would withdraw that word "permit." We have no intention of setting ourselves up as a committee not to permit anything. I will say that in my opinion this bill would destroy the credit of the city of Detroit, which I am sure you do not want to do. We had a committee meeting of our insurance company yesterday. We have $15,000 of those bonds. They will sell for about $50, and they cost us $98. The suggestion was made that we sell them. I said, "Wait until I come back from Washington. If there is a chance for this legislation, I believe we will be able to get more for our bonds, because I believe it will help the credit of Detroit." I

will say to you, sir, if this bill goes through, I will be forced to advise my committee to sell those bonds.

Mr. Zimmerman. If you can get anything for them, I think it would be advisable.

Mr. Barker. I say that as president of an insurance company.

Senator Black. What insurance company?

Mr. Barker. The Guarantee Life Insurance Co. of New York. It is just a small company.

(Whereupon, at 12.45 o'clock p. m., the hearing was closed, and the committee proceeded to executive session.)

* * *

Nos. 15-233 & 15-255

IN THE

Supreme Court of the United States

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Petitioners,

v.

FRANKLIN CALIFORNIA TAX-FREE TRUST, *et al.*,
Respondents.

MELBA ACOSTA-FEBO, *et al.*,
Petitioners,

v.

FRANKLIN CALIFORNIA TAX-FREE TRUST, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the First Circuit

JOINT APPENDIX VOLUME II
(pp. 324-632)

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PETITIONS FOR WRIT OF CERTIORARI FILED
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TABLE OF CONTENTS

Page

Dockets

Docket,
U.S. Court of Appeals for the First Circuit,
Franklin California Tax-Free Trust, et al. v. Commonwealth of Puerto Rico, et al.
(No. 15-1218) 1

Docket,
U.S. Court of Appeals for the First Circuit,
BlueMountain Capital Management, LLC v. Garcia-Padilla, et al. (No. 15-1221) 36

Docket,
U.S. Court of Appeals for the First Circuit,
Franklin California Tax-Free Trust, et al. v. Acosta-Febo (No. 15-1271) 75

Docket,
U.S. Court of Appeals for the First Circuit,
BlueMountain Capital Management, LLC v. Doe
(No. 15-1272) 121

Docket,
U.S. District Court for the District of Puerto Rico,
Franklin California Tax-Free Trust, et al. v. Commonwealth of Puerto Rico, et al.,
No. 3:14-cv-1518 (D.P.R.) 155

Docket,
U.S. District Court for the District of Puerto Rico,
BlueMountain Capital Management, LLC v. Garcia-Padilla, et al.,
No. 3:14-cv-1569 (D.P.R.) 200

Legislative History

43 Cong. Rec. 2010-16 (1909) 219

Hearing on S. 5639 Before the S. Comm. on the Judiciary, 72nd Cong. 1-16, 40-46 (1933) 272

S. Rep. No. 73-407, at 1-6 (1934) 324

Hearings on S. 1868 and H.R. 5950 Before a Subcomm. of the S. Comm. on the Judiciary, 73d Cong. 42-58, 141-47 (1934) 336

H.R. Rep. No. 75-517, at 1-4 (1937) 387

S. Rep. No. 75-911, at 1-3 (1937) 394

H.R. 4307, 79th Cong. 1, 17-18 (1945) 401

H.R. Rep. No. 79-2246, at 1-4, 6-7, 11 (1946) 404

Hearings on H.R. 4307 Before Special Subcomm. on Bankruptcy and Reorganization of the H. Comm. of the Judiciary, 79th Cong. 7-16 (1946) 422

H.R. Rep. No. 94-686, at 1-6, 15-19, 55-57, 61-62 (1975) 447

H.R. Rep. No. 94-938, at 16 (1976) 480

H.R. Rep. No. 95-595, at 1-6, 394-95, 397-98 (1977) 484

H.R. Rep. No. 95-989, at 1, 8-9, 31, 110 (1978) 505

124 Cong. Rec. 32,403, 34,002 (1978) 511

H.R. Rep. No. 96-305, at 1-3 (1979) 523

H.R. Rep. No. 96-1195, at 1, 8 (1980) 529

Hearing on S. 333 and S. 445 Before the S. Comm. on the Judiciary, 98th Cong. 1, 325-26 (1983) 533

Statutes at Large

30 Stat. 544-45 (1898) 541
50 Stat. 653-54, 659 (1937) 546
52 Stat. 840, 842 (1938) 551
60 Stat. 409-16 (1946) 555
66 Stat. 327-28 (1952) 573
90 Stat. 315-17 (1976) 577
92 Stat. 2549-54, 2622 (1978) 584
98 Stat. 333, 368-69 (1984) 600

Other Materials

Puerto Rico Electric Power Authority,
Trust Agreement, §§ 502, 503, 505, 601, 701,
705, 709, 712, 802, 803, 804, 1102 608

Puerto Rico Electric Power Authority,
Power Revenue Bonds, Series 2013A
Official Statement, Cover Page 630

73D Congress | SENATE | Report
2d Session | No. 407

TO AMEND THE BANKRUTCY ACT– MUNICIPAL INDEBTEDNESS

February 28 (Calendar Day, March 5), 1934

Ordered to be Printed

Mr. Neely, from the Committee on the Judiciary, sumitted the following

REPORT

[To accompany H.R. 5950]

The Committee on the Judiciary, having had under consideration the bill (H.R. 5950) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto, report the same favorably to the Senate and recommend that the bill do pass.

The purpose and effect of this legislation are set out in House Report 207, which accompanied this bill in the House of Representatives, and which is hereby adopted as the report of the Committee on the Judiciary of the Senate, as follows:

The controlling purposes of the bill are to provide a forum where distressed cities, counties, and minor political subdivisions, designated in the bill as "taxing districts", of their own volition, free from all coercion, may meet with their creditors under the

necessary judicial control and assistance in an effort to effect an adjustment of their financial matters upon a plan deemed mutually advantageous. If a plan is agreed upon by the taxing district and its creditors holding two thirds in amount of the claims of each class of indebtedness, and if the court is satisfied that the plan is workable and equitable, it may confirm the plan, and the minority creditors are bound thereby.

The general plan of this bill, as may be seen from the foregoing, is substantially that of the bills amendatory of the Bankruptcy Act dealing with railroads and dealing with corporations, which have been approved by the House.

THE CONSTITUTIONAL POWERS AND DUTIES OF CONGRESS

The following quotation is taken from an opinion given by the Attorney General April 21, 1933:

"Approaching the question whether Congress may enact any form of bankruptcy legislation applicable to municipalities, it should be borne in mind that Congress alone can effectively act. The Constitution prohibits the States from enacting any law 'impairing the obligation of contracts', and this prohibition covers a law discharging insolvent debtors from liabilities incurred prior to its passage." (*Sturges v. Crowninshield,* 4 Wheat. 122.)

The committee concurs in this opinion, and is convinced that because of this limitation upon the power of the States contained in the Federal Constitution the States do not possess the power necessary effectively to deal with the situation which exists with regard to bankrupt taxing districts.

In the hearings before the committee it was disclosed that as of date March 25, 1933, there were scattered among 41 States, 895 cities, counties, taxing districts, etc., designated in this bill as "taxing districts," which were in actual default with the number now well above 1,000, with many others threatened with default.

The committee is also convinced that a large majority of holders of the obligations of these taxing districts desire the enactment of this proposed legislation.

The committee has also taken into consideration, and regards of great importance, the public necessity of making it possible for cities, by mutual and effective agreement with their creditors, so to adjust their existing indebtedness as to carry forward without too hurtful a diminution the discharge of their governmental duties of fire, police, and sanitary protection, and education, and meet the increased burden incident to caring for those who must seek public assistance in order to live.

THIS BILL DOES NOT EXTEND THE FEDERAL JURISDICTION OVER THE STATES OR OVER ANY OF THEIR SUBDIVISIONS.

These defaulting taxing districts may now be sued by nonresidents in Federal courts as a private person may be sued for debt, and by mandamus may be compelled to levy the necessary tax to meet past due obligations, and their officers may be sent to jail for contempt if they refuse to proceed to the levy and collection of the necessary taxes.

This bill would suspend the exercise of that Federal power during the reasonable time provided

by the bill while a new plan possible of being carried out is in process of formulation.

This bill does not permit a taxing district to be forced into court. Only upon its own initiative and petition can a taxing district become subject to the jurisdiction of the bankruptcy court under this bill.

The bill is not only temporary, made so by a specific limitation of 2 years, but it is also specifically provided that as soon as the final decree is entered in any case the Federal court before which the readjustment has been effected shall immediately cease all jurisdiction, leaving the parties to their present and ordinary remedies with reference to all matters connected with the plan which may later come into controversy. As a further limitation upon Federal power and in respect for the rights and responsibilities of the States, it is provided as follows:

"(1) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control by legislation or otherwise any political subdivision thereof in the exercise of its political or governmental powers, including expenditures therefor and including the power to require the approval by any governmental agency of the State of the filing of any petition hereunder and of any plan of readjustment, and whenever there shall exist or shall hereafter be created under the law of any State any agency of such State authorized to exercise supervision or control over the fiscal affairs of all or any political subdivisions thereof, and whenever such agency has assumed such supervision or control over any political subdivision, then no petition of such political subdivision may be received hereunder

unless accompanied by the written approval of such agency and no plan of readjustment shall be put into temporary effect or finally confirmed without the written approval of such agency of such plans."

This bill insofar as its coercive features are concerned is directed solely against the nonconsenting minority holding out, often, for its pound of flesh against the judgment of two thirds of the other creditors and against a taxing district unable to pay according to the present terms of its existing indebtedness, and in a sense holding out against the court of bankruptcy charged by the terms of the bill that before it may approve it, the judge must hear objections to the plan and find that the plan is fair and equitable.

The mechanics of the bill are substantially those of the two amendments to the Bankruptcy Act which are familiar to the House and which have been approved by the House.

MINORITY VIEWS

A minority of the Senate Judiciary Committee, to which was referred H.R. 5950, to amend the Bankruptcy Act of 1898, as amended and supplemented, feels that such bill ought to be rejected.

The recommendation that such bill be rejected is based upon two propositions: First, that said bill is unconstitutional; second, that the policy of enacting such legislation is ill-advised.

In support of the position taken by said majority of said subcommittee, it is respectfully submitted that the constitutionality of said bill has been the subject of prolonged and highly controversial

discussion. It. is the opinion of the undersigned that the weight of the authorities is to the effect that the bill is unconstitutional.

It is proposed by this legislation that any municipality or other political subdivision of any State, including any county, city, borough, village, parish, town, or township, unincorporated tax or special assessment district, and any school, drainage, irrigation, levee, sewer or paving, sanitary, port, improvement, or other districts may file petitions in courts of bankruptcy stating that the taxing district is insolvent or unable to meet its debts as they mature and that it is desirous of effecting a plan of readjustment of its debts upon the basis of its capacity to pay. Subject to numerous conditions contained in the bill, the judge of the United States district court may approve or disapprove the petition and the plan for refunding the debts of the petitioning municipality. If the plan be approved, the final decree of said court shall discharge the taxing district from those debts and liabilities dealt with in the plan and upon such confirmation the provisions of the plan and of the order of confirmation shall be binding upon (1) the taxing district, and (2) all creditors, secured or unsecured, whether or not affected by the plan, and whether or not their claims shall have been filed or evidenced, and if filed or evidenced, whether or not allowed, including creditors who have not, as well as those who have, accepted it. It is submitted that, the grant of above powers to a court of bankruptcy is an interference with the powers, rights, and privileges of the sovereign States.

It is academic to suggest that the political units named in the bill are subdivisions of and agencies of the State. Such subdivisions and agencies are created by the State to carry out, in given localities, the business and functions of the State. Their authority is limited to the powers granted them under the constitution of the State, its statutes or by charter. Such powers must be exercised in strict compliance with such grants of power. Upon no other theory could the delegation of the power to tax, being a legislative function, be delegated to such political units.

By this bill, the Federal courts are empowered to revise and recast the debts and obligations of the subordinate governmental agencies of the States. They are empowered to alter and nullify the laws theretofore enacted by the States and the ordinances of the States' subordinate governmental agencies exercising the power of taxation. It proposes to discharge the municipality and its officers from the duty imposed by State law to levy taxes to pay the debts and obligations of the municipality. These tax levies once fixed become liens which should not be interfered with nor nullified by Federal governmental action.

The opinion of the Attorney General's office rendered to the Judiciary Committee of the House attempts to draw a distinction between the proprietary and public capacities of a municipality and concludes as follows:

In my opinion the private or proprietary capacity of a municipality is sufficiently distinct and definite to bring it within the purview of the bankruptcy power of Congress where the State, as the

representative of the municipality's governmental functions, has given its consent.

It developed at the hearings that there is no recognized or uniform line of cleavage determining when a municipal unit is acting in a private or proprietary capacity and when it is functioning in a public or governmental capacity. Such distinction is purely of judicial origin to relieve the harsh rule denying recovery against municipalities for negligence of inferior officers and servants in the performance of duties connected with certain public activities. It has no application to the income, property, contracts, debts, bonds, appropriations, or tax levies for such public activities.

It is impossible to envisage a sovereign State as subject to bankruptcy courts. The power of the States and their subordinate governmental agencies to borrow money, incur obligations, and fix tax levies is essentially a function of the sovereign States, legislative in nature, and cannot be delegated to the judicial branches of the States, much less to the judicial branches of a foreign sovereignty.

In view of the above facts, the undersigned are of the opinion that the Federal Government is without power or authority to exercise jurisdiction over or interfere with the sovereign States or their subdivisions and agencies as provided in H.R. 5950.

THE POLICY OF THE BILL.

After thorough public hearings and investigation, the undersigned are of the further opinion that, in the ground of policy as well as legality, the bill ought to be rejected.

As set out in the report of the committee on commercial law and bankruptcy of the American Bar Association, which report was unanimously adopted by the association at its annual meeting in 1933—

The inevitable results of the operation of municipal bankruptcy must be to depress the market for municipal securities and seriously impair the credit of cities in sound financial position.

To this opinion we subscribe. Even proponents of this legislation have been candid enough to admit that the passage of either of the bills under discussion would affect the credit of solvent cities, would act as a drag on the sale of municipal securities and might demand a higher rate of interest on such securities. In all probability only a comparatively small percent of municipalities will take advantage of the provisions of the bills if enacted, yet the presence of the law on the statute books would, in the opinion of the undersigned, cost investors and solvent municipalities millions of dollars.

Municipal securities have always been considered gilt edge investments. They have ranked second only to the obligations of the Federal and State Governments. Probate courts have for generations authorized and directed guardians, trustees and administrators to invest the trust funds under their control in municipal securities. The American Legion Endowment Fund Corporation now has approximately four and one-half million dollars invested in the bonds of municipalities and other political units. The capital of this corporation was contributed by public spirited citizens all over the United States for the purpose of creating an income

which is expended solely for the rehabilitation and child welfare work in connection with the veterans of the World War. The officers of this fund are strongly opposed to the passage of this legislation. The funds of scores of fraternal insurance orders are similarly invested and such fraternal orders have gone on record as opposed to the bill.

The testimony taken at the hearings did not develop the fact that this legislation was necessary to avoid universal repudiation of municipal debts. While no witness seemed possessed of very accurate information on the subject, it was stated by the different witnesses that from 250,000 to 400,000 taxing districts would be potentially subject to this legislation. It is further safe to assume that approximately 2,000 of such units are in default in the payment of principal or interest or both on their obligations at this time. It is further agreed that there are outstanding approximately $20,000,000,000 of such municipal securities. In the face of such facts it surely cannot be argued that legislation of this character is universally demanded.

The most insistent demand for this legislation comes from cities which were overdeveloped during boom days when real-estate prices were pyramided and unreasonable and wholly unwarranted public improvements were projected upon such pyramided values. While it is palpable that such cities are at this time seriously involved, it is the duty of the State to come to the relief of such communities rather than to involve the faith and credit of the tens of thousands of solvent municipalities throughout the entire country by the passage of such Federal legislation as is here demanded. It is quite evident

from the decision in the case of *Home Building & Loan Association* v. *Blaisdell*, rendered by the Supreme Court of the United States on January 8, 1934, that the State, through proper legislation, may declare such moritoria as may afford temporary relief to certain of its political subdivisions. It may also provide for direct relief to such municipalities and other political subdivisions. If this be true, we question the propriety of the Federal Government entering into the legislation contemplated by the bills under consideration.

Many reliable parties in interest have very frankly and fearlessly expressed themselves as opposed to this legislation. Among such opponents, may we cite the following:

1. American Bar Association.
2. American Bankers Association.
3. Chamber of Commerce of the United States.
4. National Fraternal Congress, representing fraternal societies with 8,000,000 members.
5. National Association of Credit Men, representing 20,000 manufacturing, wholesaling, and banking institutions.
6. Pennsylvania Fraternal Congress.
7. Ohio Chamber of Commerce.
8. Tacoma Chamber of Commerce.
9. Pennsylvania Fraternal Congress, having a constituency of 36 fraternal societies.
10. Polish Association of America, Milwaukee.
11. Junior Order of American Mechanics, Philadelphia.

12. New England Fraternal Congress.

13. Maryland Fraternal Congress.

14. Wisconsin Fraternal Congress.

15. Western Catholic Union, Peoria, Ill.

16. Degree of Honor Protective Association, St. Paul.

17. Ben Hur Life Association, having 58,000,000 in municipal bonds, Crawfordsville, Ind.

18. Association of Indiana Legal Reserve Life Insurance Companies, having $27,000,000 invested in municipal securities.

19. Ancient Order of United Workmen, having $10,500,000 invested in municipal bonds, Newton, Kansas.

As aforesaid, on the ground of policy as well as legality, the undersigned members of said Judiciary Committee feel that said bill ought to be rejected.

FREDERICK VAN NUYS.
DANIEL HASTINGS.
FELIX HEBERT.
PAT MCCARRAN.

AMENDMENT OF BANKRUPTCY LAWS
BANKRUPTCY OF MUNICIPALITIES

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

SEVENTY-THIRD CONGRESS
SECOND SESSION

ON

S. 1868 AND H.R. 5950
BILLS TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH A UNIFORM SYSTEM OF BANKRUPTCY THROUGHOUT THE UNITED STATES", APPROVED JULY 1, 1898, AND ACTS AMENDATORY THEREOF AND SUPPLEMENTARY THERETO

JANUARY 24 AND 30, 1934

Printed for the use of the Committee on the Judiciary

* * *

...committee of the United States Conference of Mayors is composed of the mayor of Boston, the mayor of New Orleans, the mayor of Milwaukee.

I will say in closing that I have had personal contact with the officials in literally hundreds of cities, and have been in most of the areas involved in these serious defaults. To my knowledge, these cities are in need of legislation to permit them to work out of the situation they are in. I know that they are honestly and sincerely trying to work out of them, and they want to work out of them, and will do so to their extent of their ability. My own feeling is that this legislation will probably help more to solve the municipal debt problem at an early date than anything else we can do at this time.

I would like to submit this for the future reference of the committee, if they would like to have it. It is a pamphlet entitled "Municipal Debt Defaults, Their Prevention and Adjustment", which I prepared before this matter became acute.

(The pamphlet referred to was filed with the committee.)

Senator Van Nuys. How many units would take advantage of this bill, if it should become a law?

Mr. Chatters. Out of the 2,019 which are in default now?

Senator Van Nuys. No. This bill includes counties, cities, boroughs, villages, parishes, towns, townships, unincorporated tax or special-assessment districts, school, drainage, irrigation, levee, sewer, paving, sanitary, port, improvement, and other districts.

Mr. Chatters. Yes.

Senator Van Nuys. What is total number of these political units?

Mr. Chatters. The Bureau of the Census is trying to find out now. There are between 175,000 and 200,000. There are that many taxing districts in the United States.

Senator Van Nuys. How many are in default?

Mr. Chatters. Two thousand and nineteen. The number of 175,000 includes all the small school districts, of which there are approximately 125,000.

Senator Van Nuys. Have you any other questions, Senator McCarran?

Senator McCarran. No.

Senator Van Nuys. That is all.

STATEMENT OF DAVID M. WOOD, NEW YORK CITY

Mr. Wood. Mr. Chairman and gentlemen, I intend to devote myself primarily to the legal side of this bill.

Senator McCarran. Before you proceed, I have a question or two I should like to ask.

Mr. Wood. I shall be glad to answer.

Senator McCarran. Do you belong to a firm?

Mr. Wood. I am a member of the firm of Thomson, Wood & Hoffman.

Senator McCarran. What is the business of the firm?

Mr. Wood. Our business is exclusively municipal law.

Senator McCarran. Exclusively municipal law?

Mr. Wood. The law of municipal corporations.

Senator McCarran. And as such you have represented what concerns?

Mr. Wood. I have represented the State of Louisiana, the State of Arkansas, the State of Minnesota, the State of Mississippi. That is all I can recall offhand. I have occasionally represented the State of North Carolina and the State of Tennessee.

Senator McCarran. Do you mean that you represent those States?

Mr. Wood. In their financial matters. I was retained by those States, and also Virginia and West Virginia. Seventy-five percent of the retainers to our firm are from States and municipalities throughout the country. The business is entirely to advise them on their financial matters, rendering opinions approving the validity of their bonds. In view of the fact that municipal and State bonds will not be purchased by the investing public unless they are accompanied by the opinion of a firm whom they recognize and in whom they have confidence, all State and municipal bonds of the country when sold are accompanied by an approving opinion of one of perhaps a dozen firms throughout the United States. I also act for investors. In many cases bonds are sold without such opinion, and the purchaser then has to get the opinion before he can put them on the market. In my practice I represent both the debtor and the creditor. I know the point of view of the debtor, and I know the point of view of the creditor.

Senator McCarran. Do you know the point of view of the taxpayer?

Mr. Wood. I know their point of view as well.

Senator McCarran. And you know the point of view of the investor from the point of the securities he is dealing in?

Mr. Wood. Yes.

Senator McCarran. That is all I care to ask at this time.

Mr. Wood. The reason I am interested in this bill is that I am convinced that the investors and taxpayers throughout the country have become convinced that we are all in the same boat; that the taxpayers and investors must stand or fall together; that they are affected by practically the same things and exactly to the same extent. When a municipality defaults in the payment of its debt its credit is cut off. Most municipalities cannot live without credit. Under the present method taxes are levied at the beginning of a fiscal year, we will say January 1. The taxes are not collected until toward the close of that fiscal year.

In the meantime, under normal conditions, those municipalities and even States live on borrowed money. They borrow in anticipation of the tax levy. So that those municipalities are annually compelled to borrow money. One of the greatest difficulties the municipalities are facing at the present time is due to the collapse of public credit throughout the country. They are not able to anticipate their tax levies. The result is usually that, in many cases over long periods of time, public officials are not paid.

It is also true that sometimes when they make improvements they borrow money in anticipation of a permanent refunding of that debt through bonds.

They will issue short-term notes for the construction of the improvement, which we will say will cost a million dollars. They don't expect to be able to pay those notes when they become due within a year or whatever the term may be. They anticipate being able to sell permanent bonds to take up those notes.

Many municipalities throughout the country issued a large amount of tax anticipation paper and bond anticipation paper. Then came the collapse in 1929, and with it, little by little, came the collapse of public credit. Those municipalities cannot now sell those long-term bonds that they anticipated being able to sell to take up the short-term paper. Those municipalities are not insolvent. They are not bankrupt, at least. They are able to pay their debts, but they cannot pay that large accumulation of indebtedness, which has already matured or will mature within the current year. They cannot sell the bonds they anticipated would enable them to spread that over a long term.

A very large number of municipalities throughout the United States that are in financial difficulties are in difficulty because of the fact that public credit has been so impaired that investors will not buy their honds. The city of Detroit is in difficulty because it has an accumulation of about $40,000,000 in short-term notes. It can pay it debt, but it cannot pay $40,000,000 either this year or next year. They had anticipated that a large amount of that debt was going to be refunded over a long period of time.

That condition exists all over the country. When a municipality defaults, the first thing that happens is an immediate reaction in the value of real estate in that community, because there is no certainty of

what future holds. For instance, in Mr. Ward's own town, we had a tax levy ordered by the court at the instance of a number of creditors, all working at cross purposes, which aggregated 425 mills. Then the question arose in the minds of some taxpayers as to whether they would pay that tax or abandon their property and move to another town and start a new business. If conditions were more favorable, he would move to the other town.

The result has been, as I can point out, and I am sure that Mr. Ward will bear me out, that the towns of this country between the time of default and the present time have lost 50 percent of their population, many of them. There is nothing to keep a man in a town where the burden of taxation is so great that he can't pay the taxes. There is nothing to prevent him from going to some less burdened town. The result is that the property deteriorates in value, and the bond is of no value unless the population is there on the property. That is why these towns must be kept solvent. If they can't pay their indebtedness within the time specified, the indebtedness must be so readjusted that they can pay it. It may be necessary, in some instances, to reduce the principal to a point where it is possible for the taxpayers of the community to bear the tax burden, and in that way salvage, both for the taxpayers and creditors, as much as possible out of the wreck.

In some cases it is obviously going to be necessary to make drastic reductions. That will be done whether this bill is passed or not. This bill will not bring that about. That is due to economic conditions. In other cases this readjustment will not make necessary a cut in principal or interest whatever. All

those communities require is an extension of the term or the date of the payment of the principal, and in some cases perhaps a temporary reduction of 2 or 3 percent in the rate of interest.

Take the plans which have been approved by debtors and creditors within the past few years. The city of Miami has only asked its creditors to extend payment for 2 years, and has asked a slight reduction in the interest rate, but has agreed to pay that interest in future years. The city of Detroit has done the same thing. There are similar agreements all over the country where all the debtors ask is for the creditors to give them a little longer time to pay that debt, and they will be able to pay 100 cents on the dollar.

The trouble has been, and still is, while the great bulk of municipal creditors of this country are willing to face the situation and make a readjustment of such debts, it is almost always frustrated by a small minority. One of the best illustrations I can give you where the present law will undertake to protect both debtor and creditor is the case in Mr. Wilcox's State. I happen to be attorney for the creditors. Approximately 90 percent or the creditors had agreed to a plan. We have had that plan agreed upon for over 2 years. We have not been able to put it into operation because of the small minority. One man is bringing a suit on a $5,000 bond. We have checked up on that man and discovered that he bought his bond at 9 cents on the dollar. He paid $450 for that bond and he is demanding $5,000. The only thing the court can do is to give judgment for that amount. By his action this man destroys the value of the bonds and the property of the taxpayers.

It is a curious thing that here we have a bill that has received the approval of both sides of the controversy. The great bulk of the creditors, and I will say the great bulk of the debtors involved, have approved the bill. The bulk of the opposition, in my judgment, to this bill comes from that minority. Those are the people who prefer the present chaotic conditions. Under the present situation we have nothing more nor less than a waiting game between the large creditors and the small unorganized creditors. The large creditors hope that the small creditors will get tired out. They gradually get tired of the controversy which results in a bankruptcy petition, and the taxpayers in many instances have acquired those bonds and used them to offset their taxes. That is being done in a good many places. In short, what the large creditors who object to this arrangement hope for is that through a sacrifice on the part of the small creditors they can acquire their equity and come out on top.

The whole purpose of this plan is to provide an equitable arrangement or a scheme in the Federal courts, under which the great bulk of the creditors can agree, and the court can make that effective and binding upon the minority. It is nothing more nor less than the application of the principles of democracy to public indebtedness.

Municipalities no longer borrow from one bank. In the early days, when they borrowed comparatively little money, they would go to the local bank to supply their needs. Today they have to borrow so much money that no one individual or institution can supply it. It is necessary to spread these bonds all over the United States. When you do that, then you

create a situation whereby, when a condition of this kind occurs with which we are faced today, one individual has the power of veto. That is really what the situation is today. One individual can exercise that power.

The effect of municipalities in default is beautifully illustrated by the St. Clair County case. That remained a backwoods county during the entire 30 years. It constructed no roads, built no courthouses, schools, or anything else. On many occasions they held court in the open, because there was no other place to hold it. It was a joke in the state of Missouri. That was the principal reason why those people finally decided to pay the debt. As far as legal questions were concerned, the courts held those bonds were legal. It was sheer repudiation. That retarded the growth and the improvement of the country, and, as I have already stated, it remained a backwoods county when the rest of the State developed as the rest of the country had.

Regarding the effect of this bill upon the marketability of municipal bonds, Mr. Chatters mentioned the Canadian situation. I will give you a comparison of American and Canadian municipalities. I have taken the American cities of Newark, San Francisco, Rochester, and Buffalo. I have also compared the per capita debt, and I have listed the Canadian cities of Montreal, Toronto, Winnipeg, and Quebec, on the basis of the order of the per capita debt.

Montreal has a per capita debt of $388.95, and Newark has a per capita debt of $340. Montreal's bonds are selling, according to a circular issued by Wood, Gundy & Co., on January 8, 1934, on a 5.05

interest yield basis, and Newark bonds are selling at a yield basis of 6 1/2 percent. The Newark bonds are exempt from Federal income tax, and the Montreal bonds are not. Here we have a Canadian city existing under this kind of rearrangement act with a greater per capita debt than Newark and no exemption from taxation, and selling at a higher price.

Toronto has a per capita debt of $343.41, and San Francisco, the next on the list, has a per capita debt of $266. Toronto bonds are selling on a 4 1/2 percent basis, and San Francisco bonds on a 4.75 basis.

Winnipeg has a per capita tax of $308.52, with bonds selling at 5.80. Rochester has a per capita debt of $336, with bonds selling at 4.60.

Quebec has a per capita debt of $305.09, selling at a 5 percent basis; Buffalo has a per capita debt of $209, with bonds selling at 4.60.

The cities of Buffalo and Rochester, in addition to being exempt from Federal taxation, are also exempt from income tax of the State of New York. Yet you can see that while their indebtedness is approximately $100 per capita less, and they have the benefit of exemption from Federal and State income tax, there is a very slight difference in the yield on those bonds.

I will also say that, with the exception of the Toronto bonds, none of those bonds are payable in sterling, so sterling exchange does not enter into that situation.

I think that should dispose of the fear that this bill will ruin municipal credit in this country when

more drastic Canadian legislation has not had that effect on Canadian securities.

There has been very much said about the need for this law and the merits of it, and I will not spend any more time on that, but will go into the legal question.

The chairman this morning made a remark that *indicated* that he doubted that the bill was constitutional, so far as it applied to taxing districts, presumably due to the fact that the Solicitor General of the United States indicated in his opinion that to that extent it would be unconstitutional because, he said, these county taxing districts are mere governmental agencies, exercising governmental functions, and are not subject to the jurisdiction of the courts, cannot be sued.

I do not understand how he got that impression because I can mention a number of decisions of the Supreme Court of the United States involving bonds of Sewer districts. For instance, I can cite the case of the *Fall Brook Irrigation District* v. *Bradley*, involving a suit against the irrigation district; *Hart* v. *The Little River Drainage District*, and numerous other cases along the same line.

Senator Van Nuys. Will it interrupt if 1 ask you a question?

Mr. Wood. Not at all.

Senator Van Nuys. In the opinion of the Attorney General, which is incorporated in the House hearings, is this expression:

In my opinion the private or proprietary capacity of a municipality is sufficiently distinct and definite to bring it within the purview of the bankruptcy power of Congress where the State, as a

representative of the muntcipality's governmental functions, has given its consent.

That is as far as the opinion of the Attorney General has gone.

Mr. Wood. In one of the opinions that I saw, signed by Mr. Weston, special assistant to the Attorney General, he made the statement that, so far as the act was applicable to counties or districts of one sort or another, it was not constitutional, because they had no proprietary capacity, but was strictly governmental organization. How he overlooked a number of decisions of the Supreme Court of the United States involving bonds of that character I cannot understand. I can cite you scores of cases of Federal courts, including the Supreme Court of the United States, involving bonds of counties, districts, cities, drainage districts, irrigation districts. What he has overlooked is where a municipality or county issues bonds it is exercising a sovereign power, the power to contract.

Senator Van Nuys. Let me ask you another question. So far as the courts have decided, what is the line of cleavage between the functions of the governmental and proprietary institutions?

Mr. Wood. So far as bonds are concerned, there is no such thing. For instance, *Presidio County* v. *Young* involved a bond issue for the construction of a courthouse. Certainly the construction of a courthouse is a governmental function, not a proprietary function. Yet the United States Supreme Court rendered judgment on those bonds.

Senator Van Nuys. One State may hold that it is governmental and another may hold that it is proprietary?

Mr. Wood. Yes.

Senator Van Nuys. What opportunity is there for the bond buyer to know?

Mr. Wood. There is no reason for knowing. Just as soon as the State or country or district or municipality issues its bonds for that purpose, the court holds it acted as a corporation, even though the State may not have so created it. The courts have held that when a State confers upon a group of citizens power which can only be exercised in a corporate form, for that particular purpose it creates a corporation, and it is treated in the courts as a corporation.

I have cited a number of cases where the courts have declared that principle, one right here in Washington, *Boyd* v. *Howard*, involved that precise question, and the Supreme Court of the United States held that certain power conferred upon it could only be exercised in its corporate capacity, and for that purpose it was a corporation and could be sued.

The mere power to issue bonds, the courts have held, confers upon the taxing districts of any soil the power to sue and be sued. The distinction in the law between proprietary and public functions is clearly defined. A municipality cannot be sued if an injury occurs in the exercise of governmental functions, whereas it can in the exercise of proprietary functions.

I have cited a number of decisions where the courts have expressly announced that doctrine. If you are interested in the history of the observations of the Federal courts, I can cite numerous cases where the Federal courts have sustained judgments on bonds of all sorts of taxing units, townships, precincts, wards, or anything else.

Senator Van Nuys. With the consent of the other members of the committee, I am going to offer the opinion of the Attorney General on that point. He does not agree with you at all.

Mr. Wood. I would like to ask the Attorney General how he explains the many decisions the Supreme Court of the United States has rendered against such units.

Senator Van Nuys. If you care to submit any additional authorities before the committee makes that request, I will be glad to accept them.

Mr. Wood. I shall be very glad to submit them. I think I can cite a hundred of them. On that point I am thoroughly convinced the Attorney General is wrong in his statement to the effect that these units are governmental units and may not be sued, which has no application when the legislature confers upon such units the power to make a contract with an individual.

It has been contended that this act is unconstitutional because it impairs the sovereignty of the States. Of the decisions that have been referred to in that connection, every decision of the courts to the effect that the United States cannot tax the operations of the government of a municipality or in any way impair its sovereign power, merely

because the Congress passed a statute that in some respects is applicable to a State and not a municipality, has held that it does not render that statute unconstitutional. It is unconstitutional only if it impairs its sovereign powers.

For instance, the United States Congress has passed the interstate commerce law, under the commerce clause of the Constitution, creating the Interstate Commerce Commission. A railroad line, and now a part of the New York Central Railroad, had a contract with the State of New York for the carrying of passengers at not exceeding 2 cents a mile. The Interstate Commerce Commission, in the exercise of its jurisdiction, ordered the railroad to increase the fare.

The State of New York brought a suit in the Federal Court to enjoin the application of that order. That went to the Supreme Court of the United States, and the State of New York made that very argument, that it was impairing its sovereign powers and violating the contracts made with it. The Supreme Court of the United States held that where Congress passed a statute under the power lawfully conferred upon it by the Constitution, it is entirely immaterial that it may interfere with the private contract, and even one made with a State, and held the power of the Interstate Commerce Commission to order that company to increase its fare, notwithstanding its contract with the State of New York, was lawful. There are many instances I could give you.

The fact that the bill provides that a municipality may go into the Federal court is no impairment of the sovereign power of the State, nor is it unusual.

The States themselves often resort to the Federal courts to bring suits against individuals, and municipalities have repeatedly done so. Right now, under our existing law, I can bring a suit in the Federal court and require a municipality to appear before the bar of that court to answer my complaint. The court can render a judgment in my favor. After I get that judgment, the court can issue a writ of mandamus compelling that municipality to levy a tax to pay that debt.

Senator McCarran. Could the court, under the rule you are now citing, change the terms and conditions of a written contract?

Mr. Wood. No; the court could not change the terms and conditions of a written contract, because Congress has not passed a statute authorizing it to do so. The Congress, under the blanket power of the Constitution, has no power to impair contracts. Merely because this gives the taxing district of the State opportunity to come at their own election and avail themselves of the process of the Federal courts does not impair the sovereign power of the State. So far as the State municipalities are concerned, it is simply a bill of rights. It gives the Federal courts no power over municipalities which they do not already possess.

Congress can pass a bill of this sort, which is binding on the minoritv of creditors, notwithstanding the contract right, under the bankruptcy clause. It has been asserted that Congress does not have the power to impair contractual obligations under the bankruptcy clause, but when we study the debates in the constitutional convention we find that it was merely accidental that the clause relating to the

impairment of contracts was confined solely to States. As a matter of fact, when that section was under discussion and it was amended to prohibit the States from impairing the obligations of contracts, one delegate moved that the same restriction be laid upon the Congress, and the motion was not even seconded. The reports have repeatedly indicated that there is nothing in the Constitution of the United States which prevents Congress from enacting a bankruptcy law, or passing an act impairing the obligation of private contracts.

I am thoroughly convinced that, so far as the power of Congress is concerned to pass this law, it is well within its power. I have yet to find any argument against it which I do not feel I could answer by citing a large number of cases.

Senator Van Nuys. Do the States consent at all times?

Mr. Wood. The States have continual power over municipalities. They can abolish them. A State can prohibit a municipality from coming into a proceeding of this kind, if it feels that the municipality should not take advantage of this act. All it has to do in such a case is to pass a statute to that effect. No social authority on the part of the State is necessary to enable a municipality to file a petition under the Sumners bill. The mere power to sue and be sued is sufficient to enable a municipality to institute any judicial proceeding which the statute permits.

Senator Van Nuys. You are in conflict with the Attorney General again. He said:

For Congress to assume to grant this authority when it has not been given by the State itself, either by general law or by special enactment, would seem to constitute a prohibited encroachment into a domain where, under our Constitution, the State is supreme.

Mr. Wood. I agree with that statement.

Senator Van Nuys. I thought you said you did not have to have the consent of the State.

Mr. Wood. No. The State has already given the power to sue and be sued. When they gave them the power to make contracts for their bonds, the courts have held that with the granting of corporate functions they granted the power to sue and to be sued, even though they did not expressly set up a corporation and say it should have the power to sue and to be sued. I think you will find very few cases where there was special authority on the part of drainage districts, towns, and so on, to sue and be sued. I grant that the Congress cannot give them the power, but the States have already granted that power, either expressly or by implication. I certainly would not say the power of a municipality to sue or be sued is limited to the type of suits where the State expressly creates a corporation. I have never heard of such a corporation, and I don't believe it exists.

Representative Sumners. May I ask a question?

Senator Van Nuys. Yes.

Representative Sumners. Do you mean that when the State creates a municipality, or a municipal corporation, it incidentally gives to the municipal corporation the right to protect its property interests?

Mr. Wood. Yes. If it gives that corporation the right to make a contract, it has by implication given it the right to compel the performance of that contract. I will forward to the committee a list which I promise will contain at least 50 cases in the Federal courts, including the Supreme Court of the United States, where the courts have sustained judgments against counties and small taxing districts other than municipal corporations.

Representative Wilcox. May I ask a question?

Senator Van Nuys. Yes.

Representative Wilcox. As I understand your position, Mr. Wood, in answer to the contention that conferring upon a municipality the right to resort to the Federal courts is an encroachment on State rights to that extent, your answer to that is that this bill confers only the voluntary right on the part of the municipality, whereas the creditor has now the right to force it into the Federal court, if he sees fit.

Mr. Wood. That is exactly what I mean. This bill opens the door of the Federal courts to the municipalities in a new proceeding, into which it must come voluntarily. No creditor could compel a municipality to file a petition under this bill. At the present time that same creditor under the existing statute could compel this municipality to come into the Federal court, answer a complaint against it there, the court could give a judgment, and by issuing a writ of mandamus compel the officials to levy a tax to pay the debt. The power of the Federal court under this act is no new departure. It possesses that power already, and can now exercise every power under the statute. The only additional power this bill gives the Federal court is the power to

render a decree binding upon minority creditors, and only to that extent is the jurisdiction of the Federal court extended.

Representative Wilcox. Under this bill the Federal courts would never have the power or authority to force a municipality into court. The municipality must come in voluntarily.

Mr. Wood. That is right. The petition can only be filed by the municipality's own volition.

Representative Sumners. Have you recently briefed the question as to whether or not this particular arrangement sought to be established is within the bankruptcy clause or provision?

Mr. Wood. Yes. I just want to point out one case to make it perfectly plain that it is within the bankruptcy clause.

A case came before the Supreme Court of the United States quite some time ago involving a similar arrangement applicable to private corporations, but which provided for the consent of a percentage of creditors. The principle is exactly the same as we have here, except that it was applicable to private corporations rather than public corporations. There was no complete discharge of the creditor and surrender of the property, such as we ordinarily have in bankruptcy.

One argument made against this bill is that it does not provide such discharge and, therefore, is not a legitimate bankruptcy bill. As long ago as the time of John Marshall, he pointed out that a discharge in bankruptcy was not essential to make the bill a bankruptcy law. That was in the case of *Sturgis* v. *Crowninshield*, where he said:

Although, then, the States may, until that power shall be exercised by Congress, pass laws concerning bankrupts, yet they cannot constitutionally introduce into such laws a clause which discharges the obligation the bankrupt has entered into. It is not admitted that without this principle, an act cannot be a bankrupt law.

He made the point that it could be a bankruptcy law even though the petitioner's discharge is not involved.

Then in the case of the *Canada Southern Railroad Co.* v. *Gebhard* (109 U.S., 527), the court had under consideration a Canadian statute providing for the refunding of the indebtedness of an insolvent railroad corporation with the approval of the majority of the creditors. In the opinion it was said:

Hence it seems to be eminently proper that where the legislative power exists some statutory provisions should be made for binding the minority in a reasonable way by the will of the majority; and unless, as is the case in the States of the United States, the passage of laws impairing the obligation of contracts is forbidden, we see no good reason why such provision may not be made in respect to existing as well as prospective obligations. The nature of securities of this class is such that the right of legislative supervision for the good of all, unless restrained by some constitutional prohibition, seems almost necessarily to form one of their ingredients, and when insolvency is threatened, and the interests of the public, as well as creditors, are imperiled by the financial embarrassments of the corporation, a reasonable "scheme of arrangement" may, in our

opinion, as well be legalized as an ordinary "composition in bankruptcy." In fact such "arrangement acts" are a species of bankrupt acts. * * * It is in entire harmony with the spirit of bankrupt laws, the binding force of which, upon those who are subject to the jurisdiction, is recognized by all civilized nations. It is not in conflict with the Constitution of the United States, which, although prohibiting States from passing laws impairing the obligation of contracts, allows Congress to establish uniform laws on the subject of bankruptcy throughout the United States.

Further on the court said:

The confirmation and legalization of " a scheme of arrangement" under such circumstances is no more than is done in bankruptcy when a "composition" agreement with the bankruptcy debtor, if assented to by the required majority of creditors, is made binding on the nonassenttng minority. In no just sense do such governmental regulations deprive a person of his property without due process of law. They simply require each individual to so conduct himself for the general good as not unnecessarily to injure another. Bankrupt laws have been in force in England for more than 3 centuries, and they have had their origin in the Roman law. The Constitution expressly empowers the Congress of the United States to establish such laws. Every member of a political community must necessarily part with some of the rights which, as an individual, not affected by his relation to others, he might have retained. Such concessions make up the consideration he gives for the obligations of the body politic to protect him in

life, liberty, and property. Bankrupt laws, whatever may be the form they assume, are of that character.

Representative Sumners. What court was that?

Mr. Wood. The Supreme Court of the United States, *Canada Southern Railway Co.* v. *Gebhart.* That case arose through the fact that a bondholder resident in New York refused to recognize the Canadian arrangement act and tried to enforce his obligation against property in the United States.

Representative Sumners. Do you understand that decision to mean that if a court should undertake to exercise the power conferred by this bill it would act within the power granted by the bankruptcy provision of the Constitution?

Mr. Wood. Yes.

Representative Sumners. Is there any .serious question among lawyers as to that?

Mr. Wood. I have never heard of it; certainly not among lawyers who are specialists in this matter.

Representative Sumners. That is what I mean.

Mr. Wood. I have heard some lawyers say that is not true, but I don't know of any specialist in either municipal law or bankruptcy law who has taken that position. There may be some. If so, I don't' know them.

Representative Wilcox. Mr. Wood, I am very much interested in a practical question, not a legal question. You referred sometime ago in the course of your statement to comparative sale prices of bonds of certain municipalities in Canada and those of certain municipalities in the United States. I do not think

you made it entirely clear as to why you were making that comparison.

Mr. Wood. I can explain that. I made that comparison because it has been contended that if this bill is passed it will destroy the credit of those municipalities which have no reason to resort to its provisions. If the Canadian municipalities have for 30 years been operating under a statute providing for a rearrangement of the debts without the consent of the creditors, I believe that the passage of this act providing for such arrangement, with the consent of the great majority of the creditors, would not have a disastrous effect upon the credit of these municipalities. The Canadian system did not completely destroy their credit, apparently did not even impair it, and the bonds of some of those Canadian cities are now selling above the bonds of similar American cities, notwithstanding the advantage of tax exemptions which the American cities enjoy.

Representative Wilcox. Certain Canadian Provinces have a rearrangement law by which outstanding bonds may be scaled down in principal or interest or both without consent of the creditors?

Mr. Wood. Yes.

Representative Wilcox. And in spite of that, the price of their bonds in some cases is above the price of bonds of similar American cities?

Mr. Wood. Yes. As a matter of fact, Mr. Wilcox, I don't know of any other country which has a contract clause similar to the contract clause in the Federal Constitution. When you buy a bond of a foreign country there is no contract clause protecting you

against the modification of that contract. If you buy a bond of Great Britain, there is no written constitution, and Parliament can at any time modify the contract. Modification of contracts in foreign countries is fairly common. This Government right now is protesting against arbitrary reduction of interest by Germany, thereby permitting the Germans to purchase their bonds at a reduction in price. Our grandfathers initiated that, so I don't suppose we should protest too loudly.

Senator Van Nuys. If this bill should become law, what is your opinion as to whether future issues would require a higher rate of interest by reason of this bill?

Mr. Wood. I do not believe it would have any effect whatever upon the rate of solvent municipalities. Here is what I think would happen, and I think it would have a very salutary effect upon public credit and public finances generally. In the past the investing public has been told "You do not need to worry about municipal bonds. They are an absolutely secure investment." That was one of the greatest fallacies of our public life. It does not exist. The impression was that they were secured by unlimited taxing power, which does not and never did exist. You can collect the taxes only if they are reasonable. When a man finds the taxes are a burden on the property, it goes off the tax rolls and produces nothing. The result is that these municipalities default, because there are no purchasers for that land. Certainly, the continuance of the burden, or the increase of it, is not going to be a cure. It simply means that the better land will go off the tax rolls. I know of many cases where more

than 50 percent of the taxable parcels of land in a community are no longer in private ownership but have been abandoned by the owners.

What I believe may happen, and I think it would have a very salutary effect upon American cities, is that if the investing public could be brought to realize that the economic laws apply just as much to municipalities and States as they do to private corporations and individuals, they would scrutinize their investments in public obligations and be sure they were based upon the ability to carry the debt, just as they would if it were the obligation of a private corporation or an individual.

Senator McCarran. The trouble is that the American investing public does not look to the source. It looks to the agency through which it buys the obligation as a rule.

Mr. Wood. I think one reason for that is that this Nation has only become a creditor Nation within the last 10 or 15 years, and we are now the greatest creditor Nation in the world.

Senator McCarran. That is absolutely correct.

Mr. Wood. It took a long time for our people to understand investments. I think when the public realizes that economic laws apply to municipalities, taxing districts, and so on, you will then have brought about the greatest check on public extravagance that can be devised. If the investor feels that public utilities should not have more debts and refuses to lend them money, you check municipal extravagance right then and then.

One of the reasons for municipal extravagance was that many officials of municipalities, when they

were constructing improvements, would not levy taxes for their payment. They would operate on a deficit, conceal the facts from the taxpayers, and allow the deficit to continue for a period of years and then refund it by other bonds and begin accumulating another deficit. That has been happening in every State of the Union.

Senator Van Nuys. Your advice would be to invest money in obligations of State and Federal Governments and stay away from municipalities?

Mr. Wood. Only one State in the Union is in default.

Senator Van Nuys. There are very few left who have much confidence in State governments and municipal governments.

Mr. Wood. That is what we are trying to restore.

Senator Van Nuys. Are we restoring it by giving them the opportunity to scale down and not pay 100 cents on the dollar, when we are criticizing the foreign nations for not living up to their obligations?

Mr. Wood. We are not by this act permitting them to do one or the other. All we are doing is permitting the debtor and creditor to get together and make some sort of mutually satisfactory arrangement.

Senator Van Nuys. You are talking about big creditors. I am talking about the probate courts in this country, where guardians and executors are advised to invest in municipal bonds, because they are good investments and you are always sure to get 100 cents on the dollar. Do you say this bill would not break down that confidence?

Mr. Wood. I don't think it would, because those same people are buying Canadian municipal securities.

Senator Van Nuys. There are a lot of conditions surrounding bonds in the Canadian municipalities that do not enter into this country. It is not quite an analogous situation.

Mr. Wood. Perhaps there are other laws that need improvement.

Senator Van Nuys. I am talking about public confidence.

Mr. Wood. My job for the last 4 years has been to protect those very people. I find we cannot find them adequately, because just as soon as I get an arrangement which will furnish protection for them, I am met with the individual of whom I spoke who bought his bonds at 9 and demanded to be bought off, or he might be a legitimate bondholder and feel that somebody would buy him off in the interest of the general situation. We are asking Congress to pass this bill because the very people about whom you are fearful do not now have that protection.

Senator Van Nuys. I recall a local situation in the State of Indiana, two insurance companies, the Better Homes Association and the former Knights of Pythias Insurance Co., which was reorganized under a different name. The treasurer of the American Legion had over a million dollars invested in municipal securities, and so did these companies. They are all against it, every one of them.

Mr. Wood. I grant you that there is a difference of opinion. I would be amazed at a unanimity of opinion supporting such a bill.

Senator Van Nuys. Then you don't insist that everybody is in favor of it?

Mr. Wood. No.

Representative Wilcox. May I ask a question along that line?

Senator Van Nuys. Yes.

Representative Wilcox. You just asked Mr. Wood what he thought the effect of permitting these governmental units to readjust their debts might be upon future securities.

Senator Van Nuys. Yes.

Representative Wilcox. I think it has been pretty well established so far, and if it has not I can satisfy the committee that there are many of these governmental units that cannot pay their debts.

Senator McCarran. Cannot?

Representative Wilcox. Cannot.

Senator McCarran. You mean immediately, do you not?

Representative Wilcox. They cannot pay them at all. I can cite a good many who cannot pay them at all, including my home town.

Senator McCarran. That is because of the typhoon down there.

Representative Wilcox. It was caused by a good many things. Do you think that withholding from that community the right to readjust its debts is going to help the fellow who owns those bonds to get his money?

Senator Van Nuys. No. Probably he will take his loss as everybody else did who invested it in Florida

real estate. But your situation represents a very small percentage of the possible taxing units of the country.

Representative Wilcox. That is not the only town in my district, and I could cite you similar towns all over the United States.

Senator Van Nuys. But you said it was a small percentage.

Representative Wilcox. Are you not overlooking the fact that withholding from those towns that need that relief the right to it does not increase their ability to pay?

Senator Van Nuys. I understand.

Representative Wilcox. And does not help the man who holds the securities?

Senator Van Nuys. I understand that. What I am getting at is that the benefit to your particular situation hardly warrants detriment to the vast majority of taxing units involved.

Representative Wilcox. If it were just my situation, I would say no; but there are already 2,000 of those cases, and they are increasing at the rate of 100 monthly and extend into 41 States.

Senator Van Nuys. I am not indicating my position on the bill, but I am raising these questions on cross-examination for the benefit of interested parties who may not be present at this hearing.

Representative Wilcox. I understand.

Senator McCarran. Let me give a rather homely illustration with which you are all familiar. There are places in the Middle West where there is a very decided popular movement to prohibit foreclosures.

We have all read about that. I do not construe that to mean that those people who owe obligations secured by real property intend in reality to default their obligations. It is the element of delay that enters into it. Faith is still present there. I think faith is present in all these municipalities. I am rather surprised at the statement that there are municipalities that cannot ever pay. I am not ready to accede to that.

Mr. Wood. Would you say a town having a tier capita debt of $10,000 could pay it?

Senator McCarran. The idea advanced this morning in respect to per capita debts does not appeal to me. It is not a question of the per capita debt, but whether the debt is properly secured, by property out of which there can be realized sufficient to pay.

Mr. Wood. Senator, you overlook the fact that there have been towns in this country that never did pay. that disappeared from the face of the earth. The idea that a town will always exist is a fallacy. Every year the Post Office Department strikes from the list of post offices towns that are now completely out of existence.

Senator McCarran. They just discontinue the post office.

Mr. Wood. But they have debts to pay. Some of those towns never will pay their debts. The town doesn't exist any more.

Senator McCarran. Does not a lot of that reflect back on the lack of judgment on the part of the fellow who bought the securities?

Mr. Wood. We are not trying to do this just for him, but for the municipalities. These municipalities are harassed by these actions in court to compel tax rates by mandamus action, and it is breaking down the entire governmental structure in those communities. I know of towns that are in such condition they cannot even maintain and improve their streets. I cannot conceive of any reason why Congress should look with any degree of satisfaction upon the chaos that exists in many communities of the United States. Many towns throughout the United States have borrowed money, and their credit has been weakened, and little by little, one after another their people have gone until today they have lost 50 percent of their former population. That is what I am referring to.

Representative Wilcox. Senator, you said that in your opinion the per capita debt was of very little consequence, and the thing that concerned you was the value of the property back of the debt.

Senator McCarran. Yes; that is what the investor would look to if he really looked to the source of his security.

Representative Wilcox. Do you think it would be possible to collect the debt of a town where, in order to live up to the amount of the contract of indebtedness, it was necessary to levy a city tax rate alone, exclusive of county, State, or district, of 425 mills or 42 percent?

Senator McCarran. Of what?

Representative Wilcox. Of the assessed value on a 100 percent valuation.

Senator McCarran. No; that is absolutely an impossible situation.

Representative Wilcox. That is what I said a little while ago. That is what I had in mind when I said there are towns that cannot pay their debts.

Senator McCarran. They are not relieved by this method.

Representative Wilcox. They can be by consent of the creditors. By consent of the creditors they can get a readjustment on a basis by which they can pay. It may require a reduction in the principal. It certainly requires a long-term refunding and a possible reduction in interest, at least a reduction in interest and postponement of principal. In some of those instances there must be a reduction in principal, because the debt is just impossible of payment. There are instances of that sort, not a great many, but there are some instances of municipalities which will never be able to pay their present debts unless it can be so arranged as to spread out over such a long period that the taxpayers can have some equity in their property. As I said this morning, there is no sentiment about the payment of taxes. A man pays them so long as it is good business. When the tax rate gets so high that there is no profit in owning the property and paying taxes on it, he will quit paying taxes.

Senator McCarran. I think that it is true that many taxpayers, by reason of sentiment, are paying taxes on property they could not possibly get the value out of, such as homes.

Representative Wilcox. That is true, I will admit, but I am speaking of business property, which usually pays the most of the taxes.

Senator VanNuys. In Chicago they pay the taxes in advance.

Representative Wilcox. Fortunately, most of them are not in the situation I have outlined, but there are some. This further thought occurs to me, and I do not want to take up too much of your time. We say that there are only 2,000 of these units now in default. Some argue it is not necessary to make provision for them to agree with their creditors for a rearrangement, because there are others not in default. You might just as well say we should abolish the bankruptcy law, because the percentage of those who will take advantage of it represents only a small percentage of the entire population. There are thousands and thousands of business men in this country who never intend to take advantage of that law, and yet we have it to provide for the fellow who cannot pay his debts. The fact that the law permits me to take advantage of bankruptcy if I see fit does not give others the right to object to my taking it.

After all, your credit depends upon your record of past payment and your ability to pay. The fact that another man living next door to you has gotten himself into difficulties to the point where he cannot pay his debts, and takes advantage of the bankruptcy law, certainly does not affect your credit. A municipality is no different from an individual in that regard. There are now 2,000 taxing units in this country that cannot pay their debt according to the present terms. Those municipalities have get to have some relief. There are thousands of other

communities in the country that do not need relief and never will take it. I think it is just as wrong to say that every municipality in this country would be dishonest in taking advantage of this law as it would be to say that every man in this country is dishonest enough to take advantage of the bankruptcy law, especially because it is established for the man who has to have it. I think it is a serious indictment of the solvent municipalities to say they would all go into court immediately, and because they can go into court they would go. This law does not permit them to do anything except with the consent of the creditors. If they are not entitled to it, they can't get it.

Mr. Wood. I just want to point out that the large percentage of taxing districts have no indebtedness at all. When you are comparing the number of defaults with the total number, bear in mind that there are many that have no indebtedness of any sort.

Senator Van Nuys. Thank you very much, Mr. Wood.

FURTHER STATEMENT OF HON. HATTON W. SUMNERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Sumners. Mr. Chairman, I will make a very brief statement, I think in about 5 minutes. I appreciate that my colleague has almost a personal interest in this litigation, and these gentlemen here are all interested in the litigation. So far as I know, I have only the interest of a legislator in this proposed legislation. We had rather extended hearings before the Committee on the Judiciary of the House of Representatives, and I will state that these are about

the conclusions I arrived at with reference to this proposed legislation.

We have had the notion in this country that municipal corporations would not default. We have been disillusioned. We are confronted with a practical situation. So far as I can visualize this problem as it relates to municipalities, it is not very much different from the situation in regard to individuals that owe more money than they can pay.

I hark back to my own experience. I know that when I was practicing law I did a comercial practice. It was always the desire and intention of the wholesale people I represented to keep, if we could, a business a going concern. When we found that a debtor was in difficulty we tried to get the creditors together, to sit around the table and discuss the situation, to find out how much money he had, how much property he had, what his debts were, and endeavored to arrive at a conclusion as to what was for the best interests of all.

Usually into that picture there came somebody who did not care anything about whether this man continued in business or not. He was trying to get 100 cents on the dollar, when in the final wind-up there might be a division of the assets of this man of not more than 25 or 30 or 40 cents.

* * *

No adjustment can be, by the bill, forced upon a taxing district nor does the bill permit any creditor to subject a taxing district to the jurisdiction of a Federal court. A proceeding under the bill cannot be commenced or instituted unless the taxing district voluntarily flies the required petition. Every plan

must be accepted and approved by the taxing district otherwise the court has no power to confirm the same. No taxing district has, of course, the power to negotiate and enter into an agreement for the composition or extension of its debts which obligate the taxing district contrary to the laws of the State in which it is located, and the bill consequently properly provides that the judge may not confirm a plan unless the judge finds that the taxing district is authorized by law, upon confirmation of the plan, to take all action necessary to carry it out. It follows that the bill should contain no limitation or restriction whatsoever as to what may be contained in a plan of readjustment.

The bill applies to municipalities, districts and other political subdivisions, including counties. It has been argued that counties are instrumentalities of the States and that consequently counties should be excluded from its operation on constitutional grounds. Although counties are in a sense instrumentalities of the States in which located, they do not partake of the sovereignty of the States nor is a State obligated upon debts created by counties; and the Federal courts have repeatedly taken jurisdiction over the enforcement of debts against counties as well as against municipalities and other districts. Counties, like municipalities, have the power to sue and be sued.

The proceeding is entirely voluntary on the part of the taxing district. The jurisdiction conferred upon the court over the taxing district is practically limited to whatever plan of adjustment is agreed to and confirmed, and as stated above, the taxing district cannot contract in the plan contrary to the

laws of its creation. Otherwise the plan could not be confirmed.

STATEMENT OF HON. J. MARX WILCOX, MEMBER OF CONGRESS, IN REBUTTAL

Mr. Wilcox. Mr. Chairman, I have listened with great interest to the arguments of the various gentlemen who have spoken in opposition to the bill. If I have taken too much of the time of the committee in questioning these gentlemen, I assure you it has been done only because of my intense desire to be helpful in developing the true facts in this matter.

In replying to their arguments I shall restrict myself to those arguments which on their face appear to be based on fact and shall not attempt to reply to the statements of pure opinion.

Many telegrams and letters have been filed with the committee protesting against the enactment of this bill. An examination of these communications will disclose the fact, however, that practically none of them offer any reason or argument as to why the bill should not be enacted into law and most of them very strongly indicate that their authors have no knowledge of the contents of the bill. Many of them, for instance, simply protest against the enactment of a law "permitting municipalities to go into bankruptcy." None of them protest, against the enactment of a law giving effect to contracts entered between the municipality and the holders of two thirds of its debts. A voluntary adjustment of debts agreed to by the majority creditors is quite different from the idea which is conveyed by the suggestion that municipalities are to be "permitted to go into bankruptcy" and "escape the payment of their debts." I suspect that most of these telegrams and letters

have been sent in by persons who have never even seen a copy of the bill and whose only knowledge of its contents has been gained from persons who stated to them that it is a bill which "affords and easy way to escape payment of debts" and which will enable municipalities to "repudiate" their debts.

Some of the gentlemen who appeared in opposition to the bill have been quite active in stirring up opposition. They have mailed out a great deal of literature in which the bill is attacked. In this literature the unsupported statement is made that the bill will accomplish many highly undesirable results, and based on these unsupported statements many persons have been induced to write or wire the committee or adopt a resolution condemning the bill without ever having heard any argument by those who favor its passage. Of course they condemn it when they are told that it will ruin the credit of solvent cities, or that it will afford a means of repudiation. But what would they say if they were told that all the bill does or attempts to do is to give effect to a contract which has been agreed to by two thirds of the creditors?

In no single instance has any group or body of men, officially or unofficially, ever adopted a resolution condemning the bill after having heard both sides of the question.

I attach very little importance, therefore, to the ex parte resolutions, telegrams, and letters which have been sent in at the instance of the opponents of the bill.

On the other hand, every resolution which I filed with the committee, approving and endorsing the bill, was adopted only after a full hearing of both

sides of the question. For instance, the United States Conference of Mayors, which is an organization of the mayors of the large, solvent cities of America, at their annual meeting in Chicago in September last year adopted a resolution unqualifiedly endorsing the bill. This resolution was adopted only after the question had been debated before them by Congressman Condon, of Rhode Island, and myself. Mr. Condon was one of the ablest and strongest opponents of the measure in the House. He spoke to the conference of mayors at great length against it and I spoke for it. The conference, therefore, heard both sides and was in possession of all of the arguments on both sides when it adopted the resolution endorsing the bill.

I could have literally flooded the committee with telegrams urging passage of the bill but I preferred not to encumber the record with ex parte expressions of opinion. I do refer the committee, however, to the numerous documents, statements, and memoranda filed with the Judiciary Committee of the House and which were printed in their report on this bill.

Aside from the constitutional questions raised by the opponents, the chief objections made to the bill, as I understood them, are:

First. That recourse to the bankruptcy courts has never heretofore been accorded to governmental units. In other words, that it is something new and never having been done before it should not now be attempted.

Obviously it has not been done before, as otherwise it would not be necessary to do it now. But is this a valid reason for not doing it if it is otherwise all right? Many of the policies of President Roosevelt

are new. It is his willingness to do things that haven't heretofore been done that is gradually bringing us out of the depression and restoring us to a normal condition of prosperity. And it was the opposite reactionary policy of being unwilling to progress or to do things for the first time that brought on our distress and came so near to destroying us. The mere fact that a thing has not been done before is, of, and by itself, no valid argument against its now being done.

When Columbus sailed across the Atlantic to discover a new continent, he acted entirely without precedent. When Bell rigged up an instrument that would carry the human voice over wires to distant cities, and when Marconi later devised another instrument that would transmit sound waves without the aid of wires, they were doing things that had not been done before. And, because these men acted without precedent, there were many who insisted that they could not succeed. And, judging by their arguments before this committee, I suppose that our friends, the good doctor from Yale, and the professor from Harvard, and the distinguished attorney from St. Louis, will all insist that America was not discovered and the telephone and the radio do not exist because Columbus, Bell, and Marconi all acted without precedent.

Speaking seriously, I admit, of course, that this is something new so far as the United States is concerned. When this country was new our taxing districts had not gotten themselves involved in debts to the point where the legislation was necessary. Being unnecessary it was never enacted. We have now reached a point where the legislation is not only

desirable but imperatively necessary if we are to bring order out of chaos and if we are ever to restore some of our units of Government to a condition where they can resume payment of their debts.

As we have progressed and developed we have never hesitated to branch out into new fields. Why should we now hesitate to adopt a perfectly fair, honest, and equitable law which will mean the salvation of hundreds of millions of dollars worth of homes and businesses and restore value to hundreds of millions of dollars worth of public obligations.

The second objection urged by the opponents of the bill is that permitting taxing units to "take bankruptcy" would destroy the value of all municipal bonds.

I have been much impressed by the arguments submitted on this point. Some of the opponents who have urged this objection have limited themselves to generalizations and have refused to "discuss the terms of the bill", while others have indicated that the terms of the bill are "probably fair." I may, of course, be in error but I gained the very definite impression that these men have no real objection to the enactment of this law, or another law having the same terms, if it is not made a part of the bankruptcy law. In other words, that it is the name of the act and not its terms that are objected to.

Of course, whether the enactment of the bill will have any effect on municipal bonds generally is one of opinion. I submit, however, that the opinion that the effect will be adverse is not well founded. We have "a precedent" to guide us in this phase of the case. Certain Provinces in Canada have debt readjustment laws which permit the scaling down of

debts, postponement of maturities or otherwise adjusting their terms without the consent of creditors. Yet the bonds of cities in these Provinces have not suffered any reduction in value but on the contrary actually sell in the United States at higher prices than bonds of cities of similar size in the United States. It will be noted that the Canadian law permits a Canadian governmental agency to rearrange and readjust the bonds of their cities without even consulting the creditors, while this bill provides that nothing can be done under its terms until the holders of two thirds of the debts have consented to the plan.

If the Canadian law has had no ill effects it is extremely difficult for me to understand why a law giving effect only to contracts agreed to by two thirds of the creditors could have such dire results as some of the opponents have suggested.

Another very powerful answer to this argument is found in the fact that the mayors of Boston, New Orleans, and Milwaukee, the three outstanding solvent cities of America have unqualifiedly endorsed this bill. Certainly, if there was the slightest chance that the enactment of this bill will have such an adverse effect as some of the opponents, profess to believe, these mayors would be the last people in the world to want it passed.

The third argument offered by the opponents is that, because the bill provides for appeal under certain conditions, adjustments under it will result in lengthy and expensive litigation.

As a matter of fact, this bill when enacted will afford, the only means for quickly, economically, and equitably adjusting these troublesome matters. It

will, of course, break up the "gravy train" of fees and costs that now exist and for this reason will undoubtedly meet with opposition from some quarters.

As the law now stands there is no way of ever ending litigation in these cases. Endless actions of mandamus and other proceedings are prosecuted with no ultimate end in view. There is no record of any end ever having been found for litigation under present laws, but there are records of litigation in these cases having been carried on for thirty years with the resulting hardships to creditors and taxpayers.

Under this bill litigation will be terminated quickly, easily, and cheaply. As soon as the majority creditors and the taxing district have agreed upon a plan it will be submitted to and approved by the court.

As an example of the speed with which these agreements can be consummated, the city of Detroit, with a debt of approximately $400,000,000, in less than 9 months time has worked out a contract which has been accepted by 90 percent of its creditors. If this law was now in effect Detroit could at once file its petition for confirmation of the plan set forth in the contract and as soon as the necessary notices could be given the plan could be approved and Detroit's bond problem settled.

A comparison of this easy and quick means of final settlement with the present laws permitting thirty years of litigation without a settlement at the end of the time, leaves little doubt as to the desirability of this proposed law.

Then as to the matter of fees and expenses. The bill provides, that none such shall be charged to the taxing district except such as are set forth in the plan of settlement which has been agreed to by the taxing district. The apprehensions of our friend, that injustice may be done by the assessment of large fees, appears to be unfounded. The taxing district does not have to pay any fees which it thinks are unreasonable, for the reason that it can withhold its consent and without its consent they may not be assessed against it.

The fourth objection offered to the bill is that it provides for an undue interference by the Federal courts in the affairs of local governmental units. This solicitude by bondholders on behalf of their debtors is a little difficult to understand. Permit me to remind the committee that the Federal courts already have the power to interfere in the most disastrous fashion in the affairs of our local governments. The Federal courts now have the right and power, which they never fail to exercise on every occasion, to enforce the contracts of municipalities and other units and by mandamus to order tax levies for the payment of principal or interest on bonds. The Federal courts do not hesitate to dictate to local governments and order the levy of taxes for the payment of bonds whether the tax when levied is collectible or not. The Federal courts also have the power, which they have freely exercised, of setting aside local laws which grant relief to the taxpayer, it such laws interfere with any of the actual or theoretical rights of bondholders.

One of the gentlemen who spoke against the bill referred to the fact that many municipalities have

adopted remedial measures to assist in and encourage the collection of taxes, such as reducing interest and penalties, permitting payment in installments and accepting bonds in payment of taxes.

I should like to remind him however that the Federal courts, upon the complaint of nonresident bondholders can set aside all of these remedial measures because it is a well known principle of law that tax collection laws in effect at the date of the issuance of bonds may not be changed so long as the bonds are outstanding. In my own State municipalities were accepting their own bonds at par in settlement of delinquent taxes and in this way were accomplishing much toward a solution of their problem, until the Federal court by injunction put a stop to it.

You will see, therefore, Mr. Chairman and Senators, that the Federal courts already have the power to intervene and interfere with and control in a large measure the affairs of local governmental units.

This bill confers no new power upon the Federal courts except to give them jurisdiction over minority creditors so as to compel acceptance of agreements between governmental units and the holders of two-thirds of their debts. It does not empower the court to take jurisdiction of any unit of government except upon the voluntary request of the unit itself and then the bill specifically provides that the court shall have no power to assume or interfere with any of the political or governmental powers of the taxing district.

The fifth objection urged is that no taxing district can ever be in such condition that it is unable to meet its debts for the reason that it has an unlimited taxing power. This argument is too ridiculous to require an answer. Any man who thinks that "the power to levy taxes" is synonymous with "the ability to collect taxes" has certainly had very little practical experience with administering the affairs of local governments.

The power to levy taxes for debts, in most states, is unlimited. But the ability to collect them after they are levied is quite another thing. I should like to cite the gentleman to one city, where in order to meet its debt service, a tax of 425 mills, or 42 1/2% percent, was levied. This means that the city tax alone for one year amounted to 42 1/2% per cent of the full value of the property. And this in addition to State and county taxes, depreciation, insurance, etcetera. In other words an owner would have to pay in full for his property every 2 years. Of course, the tax was uncollectible.

The sixth and last objection to which I shall attempt to reply is the argument that the enactment of this bill will result in "a rush to the bankruptcy courts," not only by those municipalities who are in need of relief but also by those that do not need relief. In other words, that because the remedy is available all municipalities, both solvent and insolvent will rush to court to avail themselves of its terms.

Well, let's examine this argument a little.

In the first place this seems to me to be a rather serious indictment of the honor of our public officials. But aside from this fact, let me remind the

committee that we have had a National Bankruptcy Act for many years. This act is available to any man who wants to take advantage of it and yet there are millions of people in America who have never taken bankruptcy. Why have these millions, many of them sorely pressed, preferred to work out of their difficulties wherever possible without resort to the bankruptcy courts? The answer is very simple. They want to preserve their credit standing, and they prefer to endure every hardship to postpone as long as possible taking advantage of the bankruptcy act.

We have been repeatedly told by the opponents of this measure that a city or district which resorts to the bankruptcy courts will have its credit standing injured. I think we may safely assume that our city, county, and district officials are at least as jealous of their credit standing as their creditors are and that they are going to take no deliberate step to injure that credit standing and that they will seek the advantages of this act only in cases of absolute necessity.

But if we assume that these gentlemen are all correct in their prediction that the officials of our solvent cities and districts will deliberately seek to readjust their debts improperly, let me call attention to the fact that they couldn't get away with it for the reason that no readjustment can be made except with the consent of two thirds of the creditors.

Certainly the holders of two thirds of the debts wil not consent to a readjustment unless it is a proper readjustment. I think, whether or not public officials are able to take care of the interest of the public, at least we can reasonably safely assume that creditors are capable of taking care of their interest.

They are not going to consent to readjustments so long as there is any reasonable probability of the debt being paid according to its original terms. There will, therefore, never be "a chinaman's chance" for a solvent city or district to secure the consent of its creditors to a readjustment plan that is not imperatively needed.

Mr. Chairman, there are many other points made by the opposition that I should like to reply to. I have already taken too much of your time. You have been most patient and courteous and I will not trespass further upon your time or your patience.

I have listened patiently, Mr. Chairman, to all of these gentlemen in order that I might discover what valid reason there could possibly be for serious opposition to this measure. I confess that I am a partisan. This measure means a great deal to the people whom I have the honor to represent. But for 23 years I have been actively engaged in the practice of law, and I have usually been able to see some merit in my opponent's contention. I think, therefore, that my inability to see any merit in the contentions of the opponents of this measure is not entirely due to partisan feeling or narrow-mindedness on my part.

I must say, however, that when these gentlemen refer to this measure, which provides only for giving effect to adjustments agreed to by two thirds of the creditors, as "an easy way out of debts" and as "a means for repudiation of debts", then either I don't know what is fair and equitable or else they don't understand the provisions of the bill.

As to the constitutional and legal questions which have been submitted and urged, I respectfully refer

the committee to the able opinions of counsel which have been filed.

In conclusion, let me say that this bill attempts to accomplish but one thing and that is to provide a sane, practical, honest, equitable, and expeditious means whereby the debts of thousands of taxing districts, from the greatest cities to the smallest school or drainage district, can be adjusted by and with the consent of the vast majority of their creditors. It prevents the "scalper" and the "chiseler" from buying up a few bonds and preventing an adjustment which the real creditors are anxious to make. Its enactment will stabilize property values in hundreds of cities and towns and will return millions of dollars worth of property to the tax rolls. It is fair and it is equitable. It is based on the good old democratic doctrine of majority rule, and I sincerely hope that it may have the approval of the United States Senate.

Mr. Chairman, on behalf of the tens of thousands of taxpayers in the distressed municipalities and taxing districts of the Nation, I thank you for the courteous and patient hearing you have given us.

(Whereupon, at 5:50 p.m., the hearing was closed and the sub-committee adjourned.)

* * *

75th Congress *1st Session* | HOUSE OF REPRESENTATIVES | Report No. 517

AMEND THE BANKRUPTCY ACT AS TO THE INDEBTEDNESS OF TAXING AGENCIES

March 31, 1937 – Referred to the
House Calendar and ordered to be printed

Mr. Chandler, from the Committee on the Judiciary, Submitted the following

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REPORT

[To accompany H.R.5969]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5969) to amend the Bankruptcy Act by adding a chapter to be known as chapter X, after consideration report the same favorable to the House with the recommendation that it do pass.

GENERAL STATEMENT

This bill is the outgrowth of public hearings by the Subcommittee on Bankruptcy of the Committe on the Judiciary on H.R. 2505, H.R. 2506, and H.R. 5403, dealing with the same subject, namely, the composition, through proceedings in bankruptcy, of the indebtedness of insolvent taxing agencies such as drainage, levee, water, irrigation, sewer, road,

school, port, and similar improvement districts, and certain towns, cities, boroughs, and townships.

Compositions are approvable only when the districts or agencies file voluntary proceedings in courts of bankruptcy, accompanied by plans approved by 51 percent of all the creditors of the district or agency, and by evidence of good faith. Each proceeding is subject to ample notice to creditors, thorough hearings, complete investigations, and appeals from interlocutory and final decrees. The plan of composition cannot be confirmod unloss acceptod in writing by creditors holding at least 66⅔ percent of the aggregate amount of the indebtedness of the petitioning district or taxing agency, and unless the judge is satisfied that the taxing district is authorized by law to carry out the plan, and until a specific finding by the court that the plan of composition is fair, equitable, and for the best interests of the creditors.

The jurisdiction conferred in the bill terminates on June 30, 1940. One of the primary purposes of the measure is to enable, under proper safeguards, the rehabilitation and reorganization of those taxing districts and agencies which were in process of rearranging and refinancing their obligations under chapter 345 of the Public Acts of the Seventy-third Congress, sections 78, 79, and 80 (48 Stat. 798; title 11, U.S.C., secs. 301, 302, and 303, as amended), when the United States Supreme Court declared that act unconstitutional in the case of *Ashton v. Cameron County Water District* (298 U. S. 513). However, any insolvent taxing district or agency may apply for composition under the provisions of this

bill, and the need for the legislation is clearly shown by the testimony presented at the hearings.

The Committee on the Judiciary is not unmindful of the sweeping character of the holding of the Supreme Court above referred to, and believes that H.R. 5969 is not invalid or contrary to the reasoning of the majority opinion in the 5-to-4 decision. The act which was declared unconstitutional designated the instrumentalities included in its provisions as political subdivisions of the State, and the Supreme Court determined that it was beyond the power reposed in Congress by article I, section 8, clause 4, of the Federal Constitution, "To establish * * * uniform laws on the subject of bankruptcies", to pass an act to interfere with the States in the control of their fiscal affairs.

The bill here recommended for passage expressly avoids any restriction on the powers of the States or their arms of government in the exercise of their sovereign rights and duties. No interference with the fiscal or governmental affairs of a political subdivision is permitted. The taxing agency itself is the only instrumentality which can seek the benefits of the proposed legislation. No involuntary proceedings are allowable, and no control or jurisdiction over that property and those revenues of the petitioning agency necessary for essential governmental purposes is conferred by the bill.

As the statute which was declared unconstitutional was held to be within the subject of bankruptcies and uniform in its application, a fortiori, the present bill is adequately related to the general subject of bankruptcies, and does not conflict with the fifth amendment of the Federal

Constitution as to due process of law. *Ashton* v. *Cameron County District* (298 U.S. 513); *Continental, etc., Co.* v. *C.R.I. & P. Ry.* (294 U.S. 648); *Louisville Joint Stock Land Bank* v. *Radford* (295 U. S. 555).

The constitutional provision authorizing Congress to establish uniform laws on the subject of bankruptcies contains no exceptions. It is only because the bankruptcy power was authorized in the same section of the Constitution which confers the Federal power to lay and collect taxes that the former power is impliedly limited by the judicial construction placed on the latter power for the purpose of preserving the independence and sovereignty of the States. Granted the limitation of the Federal taxing power, if the pending bill does not and cannot restrict the control of a State agency over its fiscal affairs, the statute would not be invalid. The States themselves are subject to taxation by the Federal Government except as to operations which are essentially governmental in their nature, and "the immunity of the States from Federal taxation is limited to those agencies which are of a governmental character." *South Carolina* v. *U.S.* (199 U.S. 437); *Ohio* v. *Helvering* (292 U.S. 36-60).

In other words, "the implied limitation on the Federal taxing power, springing from the necessity of maintaining our dual system of Government, does not extend beyond" that necessity; and the bankruptcy power is subject to like interpretation. *Board of Trustees of Illinois* v. *United States* (289 U.S. 48).

In construing the implied limitation on the Federal taxing power, the cases have been determined on their facts, and if there was no actual

interference with essential governmental functions of a State or its agencies, the exercise of the taxing power has been sustained. This rule of construction applies with equal force and effect to the power to establish uniform laws on the subject of bankruptcies, and, in itself, justifies the passage of the pending bill to meet conditions deserving legislative assistance.

Therefore, the applicability of the pending bill to any taxing district or agency rests on the corporate character of each petitioner and depends on the actual interference, if any, with its essential governmental functions; and the saving clause in section 81 of the bill is designed to sustain the measure as to others if any one or more of the taxing agencies classified therein should be held to be political subdivisions exercising sovereign powers.

This bill is intended to remove an apparent impasse, and the committee believes that it will be welcomed by debtors and creditors. When a municipality or a taxing district is insolvent, the creditors cannot foreclose their mortgage, or cause public property to bo sold and the proceeds distributed. They must look to the exercise of the taxing power over a period of years, or, in cooperation with the debtor district, must grant extensions. This often involves reorganization of part or all of the debt structure, and hinges upon agreement by debtor and creditor, or on the existence of a Federal statute which may force recalcitrant minority creditors into agreemont. Otherwise the creditors of a municipality or a taxing district must resort to mandamus proceedings, which have not been adequate remedies. In fact, the trend of recent

decisions has been to deny the writ of mandamus wherever sound judicial discretion justifies denial. Hence, creditors have been unable to obtain unjust advantage, but the problem of the municipality or taxing district has remained unsolved. *Christmas* v. *City of Asbury Park* (78 Fed. (2d) 1003. For an embarrassed debtor without the remedy afforded by this bill, the only effective recourse is the repeal of its charter by the State legislature, in which event creditors are generally left without any remedy. *Meriwether* v. *Garrett* (102 U.S. 472, 501).

There is no hope for relief through statutes enacted by the States, because the Constitution forbids the passing of State laws impairing the obligations of existing contracts. Therefore, relief must come from Congress, if at all. The committee are not prepared to admit that the situation presents a legislative no-man's land. The power to deal with bankruptcies was given by the Constitution to Congress without express limitation, and, at the same time, the States deprived themselves of the power to deal adequately with the conditions which have arisen. Only analogous judicial construction has blocked the way thus far. It is the opinion of the committee that the present bill removes the objections to the unconstitutional statute, and gives a forum to enable those distressed taxing agencies which desire to adjust their obligations and which are capable of reorganization, to meet their creditors under necessary judicial control and guidance and free from coercion, and to effect such adjustment on a plan determined to be mutually advantageous.

Historically the early bankruptcy statutes were of limited duration, and were intended to provide

methods whereby insolvent and failing debtors could be relieved of overwhelming burdens and thus be enabled to make a new start under favorable conditions which generally followed periods of great depression. This bill has a 3-year limitation. That is considered ample time to effect necessary compositions. Permanent legislation of this character would tend to affect adversely the financial problems of taxing agencies, and the committee, while not expecting unfailing foresight by public officials, cherishes the view that public contracts, especially, should be scrupulously performed whenever possible.

As an aid to insolvent taxing districts, Congress has authorized the Reconstruction Finance Corporation to make loans to such instrumentalities within safe limits as to security and duration. Through this channel, districts and agencies eligible for relief under the pending legislation can apply to the Reconstruction Finance Corporation for sufficient funds to compose their debts. Many acceptable applications are now pending, and others will be made if this bill is enacted into law. Many defaults in public obligations can be removed, and the welfare of thousands of citizens can be promoted by the passage of the bill.

* * *

75th Congress *1st Session* SENATE Report No. 911

AMENDING THE BANKRUPTCY ACT

July 22, 1937 – Ordered to be printed

Mr. DIETERICH, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 5969]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5969) to amend the Bankruptcy Act, after consideration thereof, report the bill favorably to the Senate with the recommendation that it do pass.

The committee adopts as its report the following statement from House report No. 517, Seventy-fifth Congress, first session:

GENERAL STATEMENT

This bill is the outgrowth of public hearings by the Subcommittee on Bankruptcy of the Committee on the Judiciary on H.R. 2505, H.R. 2506 and H.R. 5403, dealing with the same subject, namely, the composition, through proceedings in bankruptcy, of the indebtedness of insolvent taxing agencies such as drainage, levee, water, irrigation, sewer, road, school, port, and similar improvement districts, and certain towns, cities, boroughs, and townships.

Compositions are approvable only when the districts or agencies file voluntary proceedings in courts of bankruptcy, accompanied by plans approved by 51 percent of all the creditors of the district or agency, and by evidence of good faith. Each proceeding is subject to ample notice to creditors, thorough bearings, complement investigations, and appeals from interlocutory and final decrees. The plan of composition cannot be confirmed unless accepted in writing by creditors holding at least 66 ⅔ percent of the aggregate amount of the indebtedness of the petitioning district or taxing agency, and unless the judge is satisfied that the taxing district is authorized by law to carry out the plan, and until a specific finding by the court that the plan of composition is fair, equitable, and for the best interests of the creditors.

The jurisdiction conferred in the bill terminates on June 30, 1940. One of the primary purposes of the measure is to enable, under proper safeguards, the rehabilitation and reorganization of those taxing districts and agencies which were in process of rearranging and refinancing their obligations under chapter 345 of the Public Acts of the Seventh-third Congress, sections 78, 79, and 80 (48 Stat. 798; title 11, U.S.C., secs. 301, 302, and 303, as amended), when the United States Supreme Court declared that act unconstitutional in the case of *Ashton v. Cameron County Water District* 298 U.S. 513). However, any insolvent taxing district or agency may apply for composition under the provisions of this bill, and the need for the legislation is clearly shown by the testimony presented at the hearings.

The Committee on the Judiciary is not unmindful of the sweeping character of the holding of the Supreme Court above referred to, and believes that H.R. 5969 is not invalid or contrary to the reasoning of the majority opinion in the 5-to-4 decision. The act which was declared unconstitutional designated the instrumentalities included in its provisions as political subdivisions of the State, and the Supreme Court determined that it was beyond the power reposed in Congress by article I, section 8, clause 4, of the Federal Constitution, "to establish *** uniform laws on the subject of bankruptcies," to pass an act to interfere with the States in the control of their fiscal affairs.

The bill here recommended for passage expressly avoids any restriction on the powers of the States or their arms of government in the exercise of their sovereign rights and duties. No interference with the fiscal or governmental affairs of a political subdivision is permitted. The taxing agency itself is the only instrumentality which can seek the benefits of the proposed legislation. No involuntary proceedings are allowable, and no control or jurisdiction over that property and those revenues of the petitioning agency necessary for essential governmental purposes is conferred by the bill.

As the statute which was declared unconstitutional was holed to be within the subject of bankruptcies and uniform in its application, a fortiori, the present bill is adequately related to the general subject of bankruptcies, and does not conflict with the fifth amendment of the Federal Constitution as to due process of law. *Ashton v. Cameron County District* 298 U.S. 513); *Continental,*

etc., Co. v. C.R.I. & P. Ry. (294 U.S. 648); *Louisville Joint Stock Land Bank v. Radford* (295 U.S. 555).

The constitutional provisions authorizing Congress to establish uniform laws on the subject of bankruptcies contains no exceptions. It is only because the bankruptcy power was authorized in the same section of the Constitution which confers the Federal power to lay and collect taxes that the former power is impliedly limited by the judicial construction placed on the latter power for the purpose of preserving the independence and sovereignty of the States. Granted the limitation of the Federal taxing power, if the pending bill does not and cannot restrict the control of a State agency over its fiscal affairs, the statute would not be invalid. The States themselves are subject to taxation by the Federal Government except as to operations which are essentially governmental in their nature, and "the immunity of the States from Federal taxation is limited to those agencies which are of a governmental character." *South Carolina v. U.S.* (199 U.S. 437); *Ohio v. Helvering* (292 U.S. 36-60).

In other words, "the implied limitation on the Federal taxing power, springing from the necessity of maintaining our dual system of Government, does not extend beyond" that necessity; and the bankruptcy power is subject to like interpretation. *Board of Trustees of Illinois v. United States* (289 U.S. 48).

In construing the implied limitation on the Federal taxing power, the cases have been determined on their facts, and if there was no actual interference with essential governmental functions of a State or its agencies, the exercise of the taxing

power has been sustained. This rule of construction applies with equal force and effect to the power to establish uniform laws on the subject of bankruptcies, and, in itself, justifies the passage of the pending bill to meet conditions deserving legislative assistance.

Therefore, the applicability of the pending bill to any taxing district or agency rests on the corporate character of each petitioner and depends on the actual interference, if any, with its essential governmental functions; and the saying clause in section 81 of the bill is designed to sustain the measure as to others if any one of more of the taxing agencies classified therein should be held to be political subdivisions exercising sovereign powers.

This bill is intended to remove an apparent impasse, and the committee believes that it will be welcomed by debtors and creditors. When a municipality or a taxing district is insolvent, the creditors cannot foreclose their mortgage, or cause public property to be sold and the proceeds distributed. They must look to the exercise of the taxing power over a period of years, or, in cooperation with the debtor district, must grant extensions. This often involves reorganization of part or all of the debt structure, and hinges upon agreement by debtor and creditor, or on the existence of a Federal statue which may force recalcitrant minority creditors into agreement. Otherwise the creditors of a municipality or taxing district must report to mandamus proceedings, which have not been adequate remedies. In fact, the trend of recent decisions has been to deny the writ of mandamus wherever sound judicial discretion justifies denial.

Hence, creditors have been unable to obtain unjust advantage, but the problem of the municipality of taxing district has remained unsolved. *Christmas v. City of Asbury Park* (78 Fed. (2d) 1003). For an embarrassed debtor without the remedy afforded by this bill, the only effective recourse is the repeal of its character by the State legislature, in which event creditors are generally left without any remedy. *Meriwether v. Garrett* (102 U.S. 472, 501).

There is no hope for relief through statutes enacted by the States, because the Constitution forbids the passing of State laws impairing the obligations of existing contracts. Therefore, relief must come from Congress, if at all. The committee are not prepared to admit that the situation presents a legislative no-man's land. The power to deal with bankruptcies was given by the Constitution to Congress without express limitation, and, at the same time, the States deprived themselves of the power to deal adequately with the conditions which have arisen. Only analogous judicial construction has blocked the way thus far. It is the opinion of the committee that the present bill removes the objections to the unconstitutional statute, and gives a forum to enable those distressed taxing agencies, which desire to adjust their obligations and which are capable of reorganization to meet their creditors under necessary judicial control and guidance and free from coercion, and to effect such adjustment on a plan determined to be mutually advantageous.

Historically the early bankruptcy statutes were of limited duration, and were intended to provide methods whereby insolvent and falling debtors could be relieved of overwhelming burdens and thus be

enabled to make a new start under favorable conditions which generally followed periods of great depression. This bill has a 3-year limitation. That is considered ample time to effect necessary compositions. Permanent legislation of this character, would tend to affect adversely the financial problems of taxing agencies, and the committee, while not expecting unfailing foresight by public officials, cherishes the view that public contracts, especially, should be scrupulously performed whenever possible.

As an aid to insolvent taxing districts, Congress has authorized the Reconstruction Finance Corporation to make loans to such instrumentalities within safe limits as to security and duration. Through this channel, districts and agencies eligible for relief under the pending legislation can apply to the Reconstruction Finance Corporation for sufficient funds to compose their debts. Many acceptable applications are now pending, and others will be made if this bill is enacted into law. Many defaults in public obligations can be removed and the welfare of thousands of citizens can be promoted by the passage of the bill.

* * *

79th CONGRESS
1st Session

H.R. 4307

IN THE HOUSE OF REPRESENTATIVES

October 5, 1945

Mr. Gwynne of Iowa introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend sections 81, 82, 83, and 84 of chapter IX of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 81, 82, 83, and 84 of chapter IX of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended (U.S.C., title 11, secs. 401, 402, 403, and 404), are amended to read as follows:

* * *

"(g) A certified copy of the final decree, or of any other decree or order entered by the court or the judge thereof, in a proceeding under this chapter, shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the decree or order was made. A certified copy of an

order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"(h) This chapter shall not be construed as to modify or repeal any prior existing statute relating to the refinancing or readjustment of indebtedness of municipalities, political, subdivisions, or districts: *Provided, however,* That the initiation of proceedings or the filing of a petition under section 80 of this Act shall not constitute a bar to the same agency or instrumentality initiating a new proceeding under section 81 of this chapter.

"(i) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however,* That while this chapter is in effect, no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"(j) The partial completion or execution of any plan of composition as outlined in any petition filed under the terms of this Act by the exchange of new evidences of indebtedness under the plan for evidences of indebtedness covered by the plan, whether such partial completion or execution of such plan of composition occurred before or after the filing

of said petition, shall not be construed as limiting the holders of any securities outstanding as the result of any such partial completion or execution of any plan of composition shall be included as consenting creditors to such plan of composition in determining the percentage of securities affected by such plan of composition.

"SEC. 84. Jurisdiction conferred on any court by section 81 shall not be exercised by such court after June 30, 1946, except in respect of any proceeding initiated by filing a petition under section 83(a) on or prior to June 30, 1946."

* * *

79TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

Report
No. 2246

AMENDING THE MUNICIPAL BANKRUPTCY ACT

JUNE 11, 1946.–Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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MR. HOBBS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 6682]

The Committee on the Judiciary, to whom was referred the bill (H.R. 6682) to amend sections 81, 82, and 83 and to repeal section 84 of chapter IX of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto, after hearings and consideration, report the same favorably to the House with amendments and recommend that the bill do pass, as so amended.

AMENDMENTS

Amendments recommended by the committee are as follows:

On page 4, line 9, strike the word "as" following the word "security".

On page 13, line 16, strike the word "his" following the word "meet" and insert in the place thereof the word "its".

On page 16, line 25, at the end of the line, change the period to a comma.

All of these amendments are merely to correct typographical errors.

STATEMENT

The original Municipal Compositions Act was enacted in the Seventy-third Congress. It was held unconstitutional in 1936 by the Supreme Court in the case of *Ashton* v. *Cameron County Water Improvement District No. 1* (298 U. S. 513; 56 Sup. Ct. 892; 80 L. Ed. 1309) as an invasion of the sovereignty of the States. In the Seventy-fifth Congress another municipal bankruptcy law was enacted and in 1938 was held to be constitutional, in the case of *U.S.* v. *Bekins* (304 U. S. 27; 82 L. Ed. 1137). This latter act would have expired on June 30, 1940, but was extended for 2 years by Public Law No. 669, Seventy-sixth Congress, approved June 28, 1940. By an act approved June 22, 1942, the Seventy-seventh Congress again extended chapter IX to June 30, 1946, at which time the present act expires. The purpose of the bill (H. R. 6682) is to repeal the expiration date provided in the law (sec. 84), thus making chapter IX a permanent part of the Bankruptcy Act, and to amend sections 81, 82, and 83 so as to—

1. Extend the benefits of chapter IX of the Bankruptcy Act to securities issued by "incorporated authorities, commissions, or similar public agencies organized for the purpose of constructing, maintaining, and operating revenue-producing enterprises."

2. Provide for references of special issues of fact to a referee in bankruptcy or a special master for a report and finding of specific facts.

3. Provide for a preliminary stay of proceedings against a municipal agency prior to the filing of the proceeding under chapter IX for a composition of its indebtedness.

4. Strengthen the effectiveness and workability of the chapter by means of procedural changes mentioned below.

SUMMARY OF THE BILL

The existing act does not adequately cover what is known as revenue bonds. These are bonds issued by a public agency which are not payable out of taxes but are payable solely from the revenues received from the operation of a revenue-producing public utility or property. When the existing act was enacted, revenue bonds were not an important factor in municipal financing. Since that time, however, there has been a great development in revenue bond financing and such bonds are now issued by municipalities and other public agencies for many other purposes, such as housing, bridges, tunnels, airports, and similar enterprises. Moreover, the development of this type of financing has brought into existence a new type of municipality known as an authority. In some instances they are called commissions or districts, but essentially they are all of the same character that is, a public agency authorized to construct or acquire a revenue-producing utility and to issue bonds for such purpose payable solely out of the revenues derived from the utility. They possess no power of taxation and were designed as a means of

financing public improvements without resorting to the taxing power. The existing law does not apply to this type of municipality.

H. R. 6682 amends the existing statute so as to make it applicable to any type of revenue bond issued by a city, town, county, and so forth, and also to make the act applicable to "authorities." The extension of the act along these lines is singularly appropriate because the revenue bonds issued by municipalities or authorities are for the purpose of financing revenue-producing enterprises rather than governmental functions. They are essentially business enterprises. The investor purchases these bonds relying upon the ability of the municipality to operate such business enterprises at a profit. Obviously these businesses are subject to the same hazards as other businesses financed by private capital. That fact is realized by the investor when he purchases such bonds and he does not depend upon the taxing power of the municipality to meet the principle and interest. Such bonds today enjoy a very wide market.

Under the existing law the holders of revenue bonds are in the same position as were the holders of general obligation bonds of a municipality prior to the enactment of the Municipal Act. A small minority would be in a position to veto a settlement to which the overwhelming majority of the holders of such bonds had agreed.

Defaults in municipal bonds of any character are not serious at the present time. However, it does not seem wise to wait for the problem to become urgent before consideration is given to its solution. The committee recognizes the fact that

there has been a new development in municipal finance. The revenue bond principle and the authority are new tools of local government which are becoming increasingly popular because they meet the problems of modern government financing. More ana more municipal activities will be financed by bonds of this type and defaults will occur to a greater or lesser degree in the coming years. The holders of these revenue bonds are entitled to the same protection under the Municipal Bankruptcy Act as is now afforded to the holders of general municipal bonds. There appears to be no good reason for making a distinction between revenue bonds and general bonds. H. R. 6682 extends the benefits of the act to the holders of all revenue bonds issued by cities, counties, towns, villages, and so forth and by authorities or similar public instrumentalities of the States.

A provision designed to clarify the procedure to be followed in filing a list of the record owners and holders of title to lands affected by a plan of composition has been added in section 83(a) commencing on page 6, line 16, of the bill. The purpose is to require such list only in cases where the plan of composition requires a revision of the assessment against the record owners or holders of title who are adversely affected by the plan. It is felt that notice to others not so affected is unnecessary.

Section 83(b) is amended to provide that only references on special issues of fact, as distinguished from general references, may be made to a referee in bankruptcy or a special master for the taking of testimony, and a report on specific facts. Only

under special circumstances shall a reference be made to a special master who is not a referee in bankruptcy. Under the Chandler Act, enacted in 1938, the referee in bankruptcy is in almost every instance the court of bankruptcy. References under the general Bankruptcy Act and under the relief chapters may now be made to the referee in bankruptcy. He has become trained and experienced in the handling of compositions and arrangements and references in all bankruptcy cases should logically be made to him under ordinary circumstances. Also he is equipped to handle this type of matter. Should the so-called referees' salary bill (H. R. 4160) which has passed the House of Representatives become law, the income from fees earned as a referee in bankruptcy or as a special master in chapter IX cases would be available as a further source of income with which to finance the referees' salaries and expenses. At the same time by limiting such references to special issues of fact, the proceedings will be speedily concluded and the costs of the proceeding will be kept within reasonable limits. The procedure recommended is in line with the spirit and purpose of the Rules of Civil Procedure made applicable to bankruptcy cases by the General Orders in Bankruptcy of the Supreme Court, which provide that references to special masters shall be the exception and not the rule.

Section 83(c) is amended by adding a new paragraph at the end of the section which would permit an agency or instrumentality to file an application for a temporary stay of proceedings against it, prior to the filing of a petition for the composition of its indebtedness. In some instances

while a district is contemplating proceedings for a composition of its. indebtedness, which requires the preacceptance of the plan, by 51 percent in amount of the securities affected by the plan, certain creditors or bondholders have instituted proceedings in an effort to secure a preference in the enforcement of their claims. In order to place all creditors on the same basis and in order to give the district, a reasonable opportunity to put itself in a position to file a petition for a composition, the bill provides for a 60-day preliminary stay upon specific allegations to be set forth in the application. An extension of not more than 60 days may be granted by the judge upon good cause shown. A similar amendment was contained, in a bill (H.R. 2673, 77th Cong.) which was approved by the Judiciary Committee of the House and recommended for passage. The provision would be extremely helpful in situations where a comparatively short additional time is needed for the district to complete its arrangements for the filing of a petition under section 81 of the act.

Strengthening amendments have also been made in sections 83(e), 83(f), and 83(i). These relate principally to procedural matters designed to clarify the act and to make, it more workable. At the end of the third paragraph of section 83(e) a new sentence is added which provides that no case shall be reversed or remanded for want of specific' or detail findings unless it is found that the evidence is insufficient to support one or more of the general findings required. The section now sets forth a number of ultimate findings-which must be made by the judge and it is the purpose of the amendment to specify that the findings of the

ultimate facts, without a finding of detailed facts to support them, shall be sufficient unless the evidence is insufficient to support them.

In many compositions the municipality offers its creditors new or refunding bonds in lieu of outstanding securities. An amendment to section 83(f) requires the court to determine the validity of the new bonds which the final decree will require the creditors to accept, and the validity of the provisions for the payment of the new bonds. New bonds should not be issued unless they have been declared by the court to be valid in every respect.

An amendment to section 83(i) provides that State legislation dealing with compositions of municipal indebtedness shall not be binding on nonconsenting creditors. State adjustment acts have been held to be valid, but a bankruptcy law under which bondholders of a municipality are required to surrender or cancel their obligations should be uniform throughout the 48 States, as the bonds of almost every municipality are widely held. Only under a Federal law should a creditor be forced to accept such an adjustment without his consent.

Section 2 of the bill repeals section 84 of chapter IX of the Bankruptcy Act. The effect of this is to make chapter IX a permanent part of the Bankruptcy Act, which the committee feel should be done. The chapter has been used extensively in Florida and in the Southwestern States. There has been some use of it in almost every part of the country. According to statistics furnished by the Administrative Office of the United States Courts,

the following use of the act has been made since 1940.

* * *

The 60 cases pending July 1, 1945, arose in the following districts:

Florida southern.....	31	Florida northern....	1
California northern...	7	Texas northern.....	1
Arkansas eastern.....	5	Texas southern.....	1
New Jersey.....	2	Ohio northern.....	1
Michigan eastern.....	2	Illinois southern....	1
Washington eastern...	2	California southern	1
Colorado.....	1	Montana.....	1
North Carolina eastern	1	Oregon.....	1
Alabama southern.....	1		

The four cases filed since July 1, 1945, arose in the following districts:

California northern	2
Texas northern	1
Oklahoma northern	1

The present use of the chapter is not great. It has, however, proved its usefulness over the past 12 years. The evils which were predicted have not occurred. It has permitted creditors and municipalities to adjust their difficulties under the supervision of the Federal court. In many cases where a composition has been secured, the principal indebtedness due the bondholders has been paid or extended for the full amount. In most instances there has been no loss of principal

toinvestors in obligations of this character. This has been accomplished by an extension of the due date, a waiver of interest, a reduction in the interest rate, or a combination of some or all of these. The witnesses appearing at the hearings have all urged that the chapter be made, a permanent part of the act and the bill has the support and approval of the municipal section of the American Bar Association and of the association itself. The committee feel that chapter IX is a useful and desirable component part of our national bankruptcy system. It is needed to round out the National Bankruptcy Act and should be retained as a permanent part of the act.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTIONS 81, 82, 83, AND 84 OF THE BANKRUPTCY ACT, AS AMENDED

"SEC. 81. This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition of indebtedness of, or authorized by, any of the [taxing] agencies or instrumentalities hereinafter named, payable (a) out of assessments or taxes, or both, levied against and constituting liens upon property in any of said

[taxing] agencies or instrumentalities, or (b) out of property acquired by foreclosure of any such assessments or taxes or both, or (c) out of income derived by such [taxing] agencies or instrumentalities from [the sale of water or power or both, or (d) from any combination thereof:] *any income-producing property, whether or not secured by a lien upon such property:* (1) Drainage, drainage and levee, [levee, levee and drainage,] reclamation, water, irrigation, or other similar districts, commonly designated as agricultural improvement districts or local improvement districts, organized or created for the purpose of constructing, improving, maintaining, and operating certain improvements or projects devoted chiefly to the improvement of lands therein for agricultural purposes; or (2) local improvement districts, such as sewer, paving, sanitary, or other similar districts, organized or created for the purposes designated by their respective names; or (3) local improvement districts, such as road, highway, or other similar districts, organized or created for the purpose of grading, paving, or otherwise improving public streets, roads, or highways; or (4) public-school districts or public-school authorities organized or created for the purpose of constructing, maintaining, and operating public schools or public-school facilities; or (5) local improvement districts, such as port, navigation, or other similar districts, organized or created for the purpose of constructing, improving, maintaining, and operating ports and port facilities; or (6) *incorporated authorities, commissions, or similar public agencies organized for the purpose of constructing, maintaining, and*

operating revenue-producing enterprises; or (7) any county or parish or any city, town, village, borough, township, or other municipality: *Provided, however,* That if any provision of this chapter, or the application thereof to any such [taxing] agency or district or class thereof or to any circumstance,is held invalid, the remainder of the chapter, or the application of such provision to any other or different [taxing agency or district or class thereof or to any other or different] circumstances, shall not be affected by such holding.

"SEC. 82. The following terms as used in this chapter, unless a different meaning is plainly required by the context, shall be construed as follows:

"[That] *The* term 'petitioner' shall include any [taxing] agency or instrumentality referred to in section 81 of this chapter.

"The term 'security' shall include bonds, notes, judgments, claims, and demands, liquidated or unliquidated, and other evidences of indebtedness, either secured or unsecured, and certificates of beneficial interest in property. "The term 'creditor' means the holder of a security or securities.

"Any agency of the United States holding securities acquired pursuant to contract with any petitioner under this chapter shall be deemed a creditor in the amount of the full face value thereof.

"The term 'security *as* affected by the plan' means a security as to which the rights of its holder are proposed to be adjusted or modified materially by the consummation of a composition agreement.

"The singular number includes the plural and the masculine gender the feminine.

"SEC. 83. (a) Any petitioner may file a petition hereunder stating that the petitioner is insolvent or unable to meet its debts as they mature and that it desires to effect a plan for the composition of its debts. The petition shall be filed with the court in whose territorial jurisdiction the petitioner or the major, part thereof is located, and, in the case of any unincorporated tax or special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations to be affected by the plan of composition. The petition shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in lieu of the fees required to be collected by the clerk under other applicable chapters of [the Uniform Bankruptcy Act of 1898,] *this title,* as amended. The petition shall state that a plan of composition has been prepared, is filed and submitted with the petition, and that creditors of the petitioner owning not less than 51 per centum in amount of the securities affected by the plan (excluding, however, any such securities owned, held, or controlled by the petitioner) [,] have accepted it in writing. There shall be filed with the petition a list of all known creditors of the petitioner, together with their addresses so far as known to petitioner, and description of their respective securities showing separately those who have accepted the plan of composition, together with their separate addresses, the contents of which list shall not constitute admissions by the petitioner in a proceeding under this chapter or

otherwise. Upon the filing of such a petition the judge shall enter an order either approving it as properly filed under this chapter, if satisfied that such petition complies with this chapter and has been filed in good faith, or dismissing it, if not so satisfied.

["Wherever] *"Whenever* the petition seeks to effect a plan for the composition of obligations represented by securities, or evidences in any form of rights to payment, issued by the petitioner to defray the cost of local improvements and *which are* payable *solely* out of the proceeds of special assessments or special taxes levied by the petitioner, *or issued by the petitioner to finance one or more revenue-producing enterprises payable solely out of the revenues of such enterprise or enterprises,* it shall be sufficient if the petitioner aver that the property liable for, *or the revenues pledged to* the payment of such securities, principal, and interest[,] is not of sufficient value, *or that the revenues of the enterprise or enterprises are inadequate* to pay same, and that the accrued interest on such securities is past due and in default; and the list of creditors to be filed with such petition need....

* * *

...incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptanc are in good faith; and (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding. *No case shall be reversed or remanded for want of specific or detailed findings unless it is found that the evidence is insufficient to support one or more of the general findings reguired in this section.*

"Before a plan is confirmed, changes and modifications may be made therein[,] with the aproval of the judge after hearing upon such notice to creditors as the judge may direct, subject to the right of any creditor who shall previously have accepted the plan to withdraw his acceptance, within a period to be fixed by the judge and after such notice as the judge may direct, if, in the opinion of the judge, the change or modification will be materially adverse to the interest of such creditor, and if any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: *Provided, however,* That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner. Either party may appeal from the interlocutory decree as in equity cases. In case said interlocutory decree shall prescribe a time within which any action is to be taken, the running of such time shall be suspended in case of an appeal until final determination thereof. In case said decree is affirmed, the judge

may grant such time as he may deem proper for the taking of such action.

"(f) If an intrelocutory decree confirming the plan is entered as [herein] provided *in subdivision* (e) *of this section*, the plan and said decree of confirmation shall become and be binding upon all creditors affected by the plan, if within the time prescribed in the interlocutory decree, or such additional time as the judge may allow, the money, securities, or other consideration to be delivered to the creditors under the terms of the plan shall have been deposited with the court or such disbursing agent as the court may appoint or shall otherwise be made available for the creditors. And thereupon the court shall enter a final decree determining that the petitioner has made available for the creditors affected by the plan the consideration provided for therein and is discharged from all debts and liabilities dealt with in the plan except as provided therein, and that the plan is binding upon all creditors affected by it, whether secured or unsecured, and whether or not their claims have been filed or evidenced, and, if filed or evidenced, whether or not allowed, including creditors who have not, as well as those who have, accepted it. *If securities are deposited by the petitioner with the court or disbursing agent for delivery to the creditors, such final decree shall not be entered unless the court finds and adjudicates that said securities have been lawfully authorized and, upon delivery, will constitute valid obligations of the petitioner, and that the provisions made to pay and secure payment thereof are valid.*

"(g) A certified copy of the final decree, or of any other decree or order entered by the court or the judge thereof, in a proceeding under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the decree or order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"(h) This chapter shall not be construed as to modify or repeal any prior[,] existing statute relating to the refinancing or readjustment of indebtedness of municipalities, political subdivisions, or districts: *Provided, however,* That the initiation of proceedings or the filing of a petition under section 80 *of this Act* shall not constitute a bar to the same [taxing] agency or instrumentality initiating a new proceeding under section 81 [thereof] *of this chapter.*

"(i) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor[.]: *Provided, however, That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.*

"(j) The partial completion or execution of any plan of composition as outlined in any petition filed under the terms of this Act by the exchange of new evidences of indebtedness under the plan for evidences of indebtedness covered by....

* * *

AMENDING MUNICIPAL BANKRUPTCY ACT

HEARINGS

BEFORE

SPECIAL SUBCOMMITTEE ON BANKTRUPTY AND REORGANIZATION OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

SEVENTY-NINTH CONGRESS
SECOND SESSION

ON

H.R. 4307

A BILL TO AMEND SECTIONS 81, 82, 83, AND 84 OF CHAPTER IX OF THE ACT ENTITLED "AN ACT TO ESTABLISH A UNIFORM SYSTEM OF BANKRUPTCY THROUGHOUT THE UNITED STATES," APPROVED JULY 1, 1989, AS AMENDED

(Subsequently amended, reintroduced and reported as H. R. 6682)

MAY 24, 1946

Serial No. 21

* * *

Before I call on him, however, Mr. McBride would like to file a brief statement. Is that right, Mr. McBride?

Mr. McBride. Yes; a very brief statement. I would give way to these gentlemen. My statement will take just about a minute.

Mr. Hobbs. We are delighted to have these gentlemen, and we regret exceedingly Mr. David M. Wood, who was anxious to appear, has been unable on account of a situation that obtains at the present moment to get here, and without objection we will permit him to file a written statement. Is there any objection? If Mr. Wood wishes to do that he may have that privilege.

Mr. Gwynne. Mr. Chairman, could Mr. McBride, if he wishes to do so, also file a written statement?

Is that your desire?

Mr. McBride. Yes, sir.

Mr. Hobbs. Yes, sir. Mr. McBride has spoken to me about the situation. If that is all he cares to do we would be delighted to have him do that, or if he cares to make an oral statement he can do so.

Mr. McBride. As I understand, Mr. Chairman, I would be glad to file that brief statement with you. That would be all the time I care to take up.

Thank you very much.

(The statement referred to is as follows:)

STATEMENT OF JONAS A. MCBRIDE, VICE PRESIDENT, NATIONAL LEGISLATIVE REPRESENTATIVE, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

Mr. McBride. Amendments to the Municipal Bankruptcy Act: *The Brotherhood of Locomotive Firemen and Enginemen*, which I represent, is the holder of a substantial block of bonds of a town in the State of Florida which have been in default ever since 1928. Since 1937 we have been involved in litigation with the town and at the present time there is no prospect of this litigation being concluded in time to permit of our reaching a refunding agreement with the community in time so that it may avail itself of the provisions of the Municipal Bankruptcy Act which terminate June 30, 1946.

We note, on examining section 84 of H.R. 4307, that no provision has been made for any extension of the life of the Municipal Bankruptcy Act beyond its present termination date of June 30, 1946.

We believe that there are doubtless many other similar situations throughout the country, where it will be practically impossible to work out a satisfactory reorganization of a municipality's financial problems before June 30, 1946, which will react to the disadvantage of a large number of municipal bondholders.

In view of this situation, I desire to urge that the pending bill be amended so as to make the legislation permanent. If that is not considered desirable, it is suggested that it be extended for a period of not less than 4 years, as was done in 1942.

Thank you.

Mr. Hobbs. We will be glad to hear you, Mr. Parkhurst.

STATEMENT OF MILLARD PARKURST, ATTORNEY AT LAW, DALLAS, TEX.

Mr. Parkhurst. Mr. Chairman, my name is Millard Parkhurst. I am a member of the law firm of McCall, Parkhurst & Crowe in Dallas, Tex. We confine our practice to legal proceedings relating to municipal bonds. I have been engaged in that particular field of the law for 11 years. The senior member of the firm is John D. McCall, who has been in that field for 27 years.

I have a written statement which I will submit and then I will try extemporaneously to point out these increases in the scope of the act.

(The remainder of the written statement is as follows:)

Since 1938 I have had the principal responsibility in the actual preparation and trial of 19 cases under the Municipal Compositions Act. I have been consulted in several other cases.

During that time, I have noticed certain weaknesses in the law which I think that Congress wuld want to correct. The pending amendments, which have been recommended by the American Bar Association, will, in my opinion, eliminate these weaknesses.

The only amendments which I wish to discuss are those relating to procedure. Although I am in favor of the other amendments, they will be discussed by Mr. David M. Wood, and I understand

he will not be here, unfortunately. Procedural requirements are sufficient if they afford all interested parties a full and fair hearing and a full disclosure of the benefits to be received by all participants. Additional procedural requirements serve no just purpose but greatly increase the cost and delay the proceeding.

And, what is much worse, unnecessary or ambiguous procedural requirements make it easy for some minority creditor to try to get some special advantage for himself by hamstringing the proceeding and running up a huge amount of expense on some point which has nothing to do with the justice of the situation. That, of course, is a means of defeating the sole purpose for which this law was passed.

The first amendment which I wish to discuss is the one beginning on page 6, line 14 of the printed bill.

Special assessment securities notice to landowners: As to special assessment bonds, the present law seems to require that a list of all legal and equitable owners of real estate be filed with the petition and to require written notice to all of them.

The purpose and effect of a bankruptcy proceeding is to reduce the burdens on the landowner; and unless there is some upward revision of the assessments, the landowners could not possibly be adversely affected by the proceeding. Moreover, they are adequately represented by their own duly chosen governing body. Generally, bankruptcy proceedings originate because of the insistence of the landowners.

One case in which I was associated involved a district covering about one-third of the State of Florida. The proceeding contemplated no action which would adversely affect any landowner. We reached the conclusion that this part of the act was not intended to apply in that situation, and we did not give the notice to the landowners.

In that case, an objecting creditor might have raised the question; and if he had succeeded, the cost of compliance with this provision would have been many thousand dollars, and the case would have been delayed probably a year.

Such a creditor would have been in position to insist upon some special advantage for himself, although this requirement had nothing to do with the justice of the case.

This amendment would settle the question so as to require notice to the landowners only in case there is a revision of the assessments which would adversely affect some of the landowners. I think this is all Congress ever intended.

Appointment of masters: This amendment appears on page 10, lines 9 and 11 et seq.

In some jurisdictions it has become common practice to refer all cases to masters, even noncontested divorce cases.

That practice does not fit into a composition case, because it incurs an expense which is always heavy and the amount cannot be anticipated with any degree of accuracy. I have been told that $15,000 is not an unusal fee to allow a master.

In a composition case it is almost imperative to estimate with some degree of certainty the amount

of expenses at the time the plan of composition is prepared, so that full information can be given to the creditors when they are asked to consent to the plan and so that the municipality will know how much money to reserve for expenses; or, if the creditors are paying the expenses, which is usually the case, they should know how much the expenses will be.

There is this further objection to a general reference to a master: When a master is taking testimony, he usually admits everything that is offered, almost regardless of its materiality unless the parties wander too far afield, because he feels that the trial court should pass on the materaility of the evidence when his report is filed.

After the hearing is completed, the record must be transcribed, at a huge cost, and then the master's report is argued to the court. This, of course, requires going over the entire record with the court.

In the Everglades drainage district case in Florida, the hearing began before the master on October 1, 1941, and proceeded intermittently until about March 2, 1942, when the master filed his report. The case was before the master for 5 months.

From my experience in similar cases, I feel that I can say confidently that the trial of this case before the judge would have taken less than a week. The Willacy County water control and improvement district case in Texas had more legal and factual complication than did the Everglades case, but it was tried by the judge in 2 days.

The district judges are highly competent men. They are quick to get at the heart of the controversy. Then they limit the evidence and the argument to the real issues in the case.

I am not criticizing the employment of masters generally; I simply say that a general reference to a master should not be made in a debt composition case.

The amendment provides that special issues of fact may be referred to a master if—

(a) The judge finds that the condition of his docket is such that he cannot take the testimony without unduly delaying the dispatch of other business before him; and

(b) it appears that such special issues of fact are necessary to the determination of the case.

Possibility or existence of fee from both debtor and creditor: This amendment is on page 14, lines 3 and 12.

The present law prohibits payment of any fee by both debtor and creditor and provides that the proceeding shall be dismissed unless the judge finds that "no such practice is possible."

No matter how carefully a plan is drawn, it might be possible for such practice to occur, though no one had any intention of indulging in it.

The question should be, not whether the practice is possible but whether it actually exists.

The amendment changes "be possible" to "exist".

Findings: This amendment appears on page 15, line.4.

unless it is found that the evidence is insufficient to support one or more of the ultimate findins required by the law.

It has always been considered that when a trial court is required to file findings of fact, he was required to file only the ultimate findings, not the detailed facts supporting the ultimate findings.

The present act sets out in numbered items the ultimate findings which must be made by the judge. It was generally believed that the filing of the findings listed by the act was all that was required, and such was the holding of the circuit court of appeals in the Everglades case (132 F.2d 742); but when an application for certiorari was filed, the Supreme Court construed the law to mean that the trial court must file findings of all the detailed subsidiary facts supporting the findings enumerated by the law. This was an 8 to 1 decision, and the case was summarily remanded (319 U.S. 415).

In the case the printed record was replete with evidence supporting statutory findings filed by the judge, but the Supreme Court held that it was not required to check the trial court's findings against the record.

Under this holding there is no way for a trial judge or the parties to know when his findings are in sufficient detail to comply with the decision of the Supreme Court.

This is another procedural pitfall which has absolutely nothing to do with the merits of the case.

Final decree; validity of new securities: This amendment appears on page 16, line 23.

In many compositions, the municipality offers its creditors new or refunding bonds, in lieu of the outstanding securities. This amendment merely authorizes the court to determine the validity of the new bonds which the final decree will require the creditors to accept and the validity of the provision made to pay the new bonds.

Validity of municipal obligations are tested by very strict rules. New bonds scaled as to interest and sometimes as to principal, should not be imposed upon a creditor without setting at rest their validity.

State bankruptcy legislation: This amendment appears on page 18, line 3. It provides that State bankruptcy legislation shall not be binding upon nonconsenting creditors as long as this act is in effect.

The Supreme Court, in the *Asbury Park* case (316 U.S. 502), held that States had the right to enact municipal bankruptcy legislation. In the Asbury Park case it was contended that the New Jersey bankruptcy legislation was invalid for two reasons: (1) The field of municipal bankruptcy had already been preempted by Congress, and (2) the broader ground that States do not have power to enact bankruptcy laws.

The opinion first observed that the State court proceeding originated before the present municipal bankruptcy law was enacted and that the field had not been preempted by Congress at the time the State court proceeding was instituted. This holding by itself would not be unexpected, but the opinion then went on: "We prefer, however, to dispose of this objection on a broader ground"; the Court then

went on to hold that a State has the right to enact bankruptcy legislation and that the present Federal bankruptcy law does not preempt the field.

Bonds of a municipality are usually distributed throughout the 48 States. Certainly any law which would have the effect of requiring the holders of such bonds to surrender or cancel a part of their investments should be a uniform Federal law and not a local law. This is certainly what the people intended when they wrote into the United States Constitution the authority for Congress "to establish * * * uniform laws on the subject of bankruptcies throughout the United States."

Respectfully submitted.

Millard Parkhurst.

Mr. Parkhurst. Mr. Chairman and members of the committee, the amendments to the act increase somewhat its scope, and it is on those items that Mr. Wood was going to speak. I was going to speak on some of the changes affecting the procedure under the act. And in Mr. Wood's absence I will try extemporaneously to point out these increases in the scope of the act.

Mr. Hobbs. We will be so glad to hear you, sir.

Mr. Parkhurst. In section 81 the original law applied to cities which had revenue bonds outstanding. These bonds were secured by the net revenues of a utility system and by a mortgage on the physical properties of the system. It is believed that the act should apply not only where there is a mortgage but also where there is not a mortgage. The first change in the act makes that change.

Then down in a sentence which is numbered "6," also in that first paragraph—here it is on page 3, line 6 et seq.—also applies to—

incorporated authorities, commissions, or similar public agencies for the purpose of constructing, maintaining, and operating revenue-producing enterprises.

Heretofore the act did not apply to authorities, nor to special districts like utility districts. I do not believe that it did.

Mr. Reed. Give us an Illustration, just using the case of the utility, we will say, of municipality A, or whatever it is, so we will understand?

Mr. Parkhurst. I will do the best I can on that.

We do not have that particular type of municipal district in my State, but there are some parts which will have a municipal electric district. It would not be a city, but it would be a district specially, formed to conduct a municipal utility.

Mr. Reed. Well, your drainage district?

Mr. Parkhurst. Drainage districts were already included.

Mr. Reed. Yes.

Mr. Parkhurst. But the kind of district I speak of, their bonds will be payable from the revenues of the system, not from taxation.

I am getting beyond myself. I am getting into something I do not know much about there. It may be Mr. Campbell will be able to give more light on that particular subject.

Mr. Reed. Do you mean this will include districts where revenues are derived only from what is sold to the public, like an electric district—something like that—and not subject to taxation?

Mr. Parkhurst. Yes, sir; it would apply to that kind of district.

Mr. Reed. Does it now apply to a district where reveuue is derived from taxation?

Mr. Parkhurst. I do not believe where revenues are not derived from taxation.

Mr. Reed. Where they are derived from taxation?

Mr. Parkhurst. Where they are derived from taxation?

Mr. Reed. Yes.

Mr. Parkhurst. I think it does; like water improvement districts, levy and drainage districts, and all of them.

Mr. Reed. Like the Sanitary District of Chicago, for instance?

Mr. Parkhurst. I just would not know about that, sir.

I hope Mr. Campbell will be able to give more light on that particular part of the act.

What I have said also applies to another change made in the first part, on page 5—some changes made in a paragraph beginning on line 20.

Now, I would like to take up the procedural amendments.

Now, since 1938 I have had the principal responsibility in the actual preparation and trial of

19 of these bankruptcy cases under this act. And during that time I have noticed some weaknesses in the act, and I have talked to other attorneys over the country who have had similar experience and noted similar weaknesses in the act, and those matters were brought out before the municipal section of the bar association during their consideration of these amendments.

The procedural requirements, I think, are sufficient—that is, the procedural requirements under a bankruptcy law or any other law are sufficient—if they afford all parties interested an opportunity to be heard and make a full disclosure of everything in relation to the case. But procedural requirements, in addition to that, serve no actual just purpose, but they clearly increase the cost and increase the delay in the proceedings. And, what is even worse, any unnecessary or ambiguous procedural requirements make it easy for some minority creditor to coerce some special advantage for himself by hamstringing the proceedings and running up large expenses and delaying the procedure generally. Of course, that is just another means of defeating the actual purpose for which this law was enacted.

Now, the first procedural amendment appears on page 6 line 14.

By way of explanation, that was added to the act for the purpose of enabling special assessment districts to avail themselves of the bankruptcy law. Now, that provision seemed to require that the owners of legal and equitable title to all lands in the district be served with notice the same as the creditors were. Now, the purpose and the effect of

a bankruptcy proceeding is not to increase any burden on the landowners but to decrease it. The only possible way that a landowner could be possibly affected would be some upward revision in the assessments. Of course, in a case of that kind the procedure would have to be had under the State law. Just parenthetically I might say it seems to me that the provision for notice to the landowners might be omitted. However, there might be some special reason why that was put into the act, and I am not advocating omission of that provision entirely for that reason.

These landowners are adequately represented by their own duly chosen governing body. This amendment only requires notice to the landowners in case there is to be an upward revision or some difference in the proportion of the assessments for the payment of the bonds.

There was one case in which I was associated involving a district in Florida. Now that district covered approximately one-third of the State of Florida. That proceeding did not contemplate any action which would adversely affect a bondholder and we reached the conclusion that this provision requiring notice to landowners would not apply to that particular case. However, an objecting creditor might have raised that question, and if he had succeeded in his point the whole proceeding would have been delayed for at least a year, and the cost of getting the names and giving notice to all those landowners in a third of the State of Florida, of course, would have been tremendous. It might have been prohibitive of the entire procedure.

A creditor who had succeeded in a thing like that would be in a position to drive a rather hard bargain if anyone were inclined to bargain in that case.

The amendment which we have proposed here would eliminate the necessity for notice to landowners in a district unless there is an upward revision in the assessments.

Mr. Hobbs. In other words, unless the landowners would be adversely interested or their rights jeopardized by the proceeding you eliminate the requirement of the notice?

Mr. Parkhurst. That is correct, Mr. Chairman.

The next amendment which I wish to discuss relates to the appointment of masters. That amendment appears on page 10 in lines 9 and 11, et seq.

On page 9 the words "special issues of fact" are substituted for the word "matters." And then in page 11 "such special issues of fact." and the rest of that paragraph is added.

The reason for that amendment is this: In some jusridictions it has become common practice to refer all matters to special masters, even noncontested divorce cases, but the practice of having a master just does not fit into a municipal composition case; because the amount of expense .in connection with having a master is always heavy, and the amount can never be determined with any degree of certainty whatever. For instance, the master's fee might be $500, $5,000, or $15,000; I am informed that $15,000 for a master's fee is not at all unusual in some jurisdictions.

In a composition case it is just almost imperative that the expenses of the entire proceeding be estimated as nearly as possible at the time the plan of composition is prepared. That is so that a full disclosure can be made to all of the creditors of the district when you are called upon to consent to the plan. Also so that the city or the district will know how much money to reserve for these expenses, or if the creditors are going to pay the expenses, which is usually the case, one way or the other, they should be told in advance about what these expenses are going to run. And that just cannot be done anywhere near accurately where there is a master in the case.

Now there is this further objection to the appointment of a master in one of these cases, and that is that the master in taking testimony does not generally sustain objections to the testimony. He lets just everything come in, regardless of its materiality, because he feels that the admission of testimony is a matter for the court to pass on when his report is filed with the court and argued by the attorneys before the court. Of course, that makes for delay and huge expense.

Mr. Hobbs. And that has the effect of padding the record?

Mr. Parkhurst. Yes, sir; but I would not say that masters do that on purpose.

Mr. Hobbs. No.

Mr. Parkhurst. I say that they feel obligated to let that in because the trial court is ultimately to pass on all of those things anyway.

Then after the hearing is completed the record made before the master must be transcribed at a huge cost by the reporter, and then it is argued before the court, and of course the whole record has to be argued to the court.

Now, in the Everglades drainage district case in Florida that case was begun before the master on October 1, 1941, and proceeded intermittently until about March 2, 1942, when the master filed his report. In other words, that case was before the master there for 5 or 6 months.

I have had other cases, for example, the Willacy county water control and improvement case in Texas had more factual and legal complications in it than the Everglades case did, yet that case was tried by the judge in 2 days. I feel that this Everglades case if it had come on before the judge instead of before the master it could have been disposed of in less than a week. Our district judges are highly competent men. They get right to the heart of the controversy, and then they admit only the testimony and the argument which relates to the actual controversy, and they won't permit the attorneys to go way out and branch into other fields that have nothing to do with the merits of the case.

I am not criticizing the employment of masters generally in cases, but I simply say that they just do not fit into a municipal composition case.

Mr. Hobbs. And how does your amendment, the amendment that is proposed in this bill, affect that situation?

Mr. Parkhurst. Here is what it does: This amendment provides that special issues of fact may

be referred to a master if first the judge finds that the condition of his docket is such that he cannot hear all of the evidence without unduly delaying the dispatch of other business in court; and, second, if it appears that such special issues of fact are necessary for the deteimination of the case. And it further provides that only special issues of fact are submitted to the master; that is, they are submitted to him in the form of special issues I suppose something like would be submitted to a jury.

Mr. Reed. As I understand it, then, the law as it exists now provides that the matter is referred to the master?

Mr. Parkhurst. Yes, sir.

Mr. Reed. And you change that, minimizing it, reducing it, so that it is specially made only material issues of fact?

Mr. Parkhurst, Yes, sir; only material issues of fact are to be submitted to the master under this proposed amendment.

Mr. Hobbs. Do you think that is broad enough to cover it in the change that is necessary?

Mr. Parkhurst. I believe that it would be.

Of course, you can tell from what I have said that I do not think much of an appointment of a master in one of these cases anyway. I believe, however, that change in the law would eliminate the fault that I find with it.

Mr. Reed. Under this amendment then the judge would be required to pick out and specify all

of the issues of fact that he wants the master to determine?

Mr. Parkhurst. Yes, sir.

Mr. Reed. And refer that and nothing else to him?

Mr. Parkhurst. Yes, sir; that is correct. In other words, the judge would have a pretrial conference of the lawyers there that would settle the issues just like they do in other cases, and the court, if he wanted to refer it to a master, would designate the issues which the master is to decide.

The next change in the act which I wish to mention is on page 14 in lines 3 and 9.

The present law prohibits the payment of any fee by both the debtor and the creditor. That is no attorney or agent or anybody in the case "is permitted to receive a fee from both the debtor and the creditor. The judge is required to examine all of the proceedings in the case and then he is required to dismiss the plan unless he finds that "no such practice is possible." It is the word "possible" that I call your attention to. The amendment in line 3 is the word "exists" from "is possible" in the present act. That is in line 3. The same is true in line 12.

No matter how carefully a plan of composition is drawn it might be possible for somebody to receive directly or indirectly a fee from both parties through the exchange of bonds or some other method accidentally. These bonds are negotiable and they float through anybody's hands, and it just might be possible under any plan of composition for that practice to be possible even though no one ever

intended to indulge in that practice. And even though it was not about to happen yet if it is possible under the strict wording of this act the judge must dismiss the proceeding. In other words, the question should not be whether the practice is possible; but whether it actually exists or is threatened.

The next change appears on page 15, line 4, et seq.

This has to do with the findings which are filed by the trial court. In line 4 this sentence is added:

No case shall be reversed or remanded for want of specific or detailed findings unless it is found that the evidence is insufficient to support one or more of the general findings requested in this section.

I always thought that was the law, anyway, until I found out otherwise the hard way.

I think it was generally believed by attorneys and judges that a trial court, when he was requested to file findings of fact, then he was only required to file his ultimate findings of fact or the ultimate facts, not the subsidiary or detailed facts supporting his ultimate findings. Especially we thought that to be true under this act, because you will notice on page 14, beginning at line 17, or the numbered paragraphs, pointing out what the judge shall find, and that was the holding. That is the court of appeals in the *Everglades case*, (132 F.2d 742), held that those findings enumerated by the statute were sufficient, but when an application for certiorari was filed with the Supreme Court that Court summarily and without a hearing remanded

the case to the district court, because it held that there must be detailed findings of the subsidiary facts to support the ultimate findings which are enumerated in the statute.

The printed record which was before the Supreme Court in that case was replete with evidence which supported each of these numbered findings in the act and they were pointed out by us in our reply, that is the page of the record supporting each of these findings was pointed out in our reply to the. application for certiorari, but the Supreme Court held it was not its function to read the record to substantiate * the findings of the trial court.

One of the dangers in the present construction of the act is that there just is not any way for the trial judge or the attorneys in the case to know when the findings have enough of the detailed or subsidiary findings of fact in them to support the judgment. That is another pitfall into which the case can be led by an objecting creditor, even though it has absolutely nothing to do with the actual justice of the case.

Now the next change I would like to discuss is on page 16, beginning in line 23. That change simply provides that when a municipality offers its creditors new securities, that is, the securities bear the reduced rate of interest or scaled as to principal, or extended as to maturity, then the final decree must adjudicate those new securities to be valid before it can impose those new securities on the creditors. The validity of municipal obligations are tested by very strict rules.

Now these new bonds which are scaled as to interest and principal I do not feel should be imposed upon a creditor without first setting at rest the validity of those obligations.

Now, on page 18, line 3, this part is new from there to the end of the paragraph:

Provided, however, That while this chapter is in effect, no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

That is another instance where I thought that was the law anyway, but I understand that it is not.

Under the Asbury Park case, decided by the Supreme Court, 316 U.S., 502, that case held that the State had the rights to enact municipal bankruptcy legislation. Now, in that case it was contended that the New Jersey bankruptcy law was invalid for 2 years. First, that the field of municipal bankruptcy legislation had been preempted by Congress. Second, on the broader ground that States do not have the power to enact bankruptcy laws. The opinion first observed was that the State court proceeding originated before the present bankruptcy law was passed. That Asbury Park case originated in the State court under the State bankruptcy law, and it originated in the State court before our present Federal law was passed. And the court held that for that reason the field had not been preempted at that time by Congress and the State court had

jurisdiction. That part of the opinion would not be surprising to me, but the opinion then went on and said this, and I will quote these few words, "We prefer, however, to dispose of this objection on a broader ground," and then the court went on to hold, first, that the State legislature had the power to enact municipal bankruptcy laws; and, second, that Congress by this act had preempted the bankruptcy law field. So, the 48 States can have their bankruptcy laws running right along at the same time as our Federal bankruptcy law.

Of course, these municipal bonds are scattered in all of the 48 States. Bonds in my State, I know, are held from coast to coast; every State in the Union.

Mr. Hobbs. That would obviate the application of the Constitution in a State that may not impair the obligation of a contract?

Mr. Parkhurst. Yes. The opinion found, or one of the ways they arrived at that decision was that the opinion or the evidence showed, that the bonds of Asbury Park had gone way down in market value, and that the bankruptcy proceeding had in effect increased their market value so that the holder of those bonds had not lost so much money after all. That was one of the reasons underlying the Asbury decision. The court held that it was such a magnanimous act for the bondholders that they should not be heard to complain.

With these, bonds of municipalities scattered all over the United States, it is even more imperative that this type of law should be of general even application all over the United States than it is for bankruptcies to affect private individuals. And I

certainly think that is what the people meant when they wrote into the Constitution of the United States the authority for Congress, and I will quote these words from the Constitution:

to establish * * * uniform laws on the subject of bankruptcies throughout the United States.

There are Mr. Campbell and possibly another who will discuss this section 84 which has to do with the extension of the act or making it permanent.

Of course, I am personally in favor of the extension of the act or making it permanent. My own belief is that it should be made permanent.

That is the end of my statement.

Do you have any further questions?

Mr. Hobbs. Are there any questions which any member of the committee desires to ask Mr. Parkhurst?

We are very grateful to you, Mr. Parkhurst, and it may be as to the issues which are developed in the other testimony and referred to that there will be questions arise so we will ask you to remain.

Mr. Parkhurst. Yes, sir. I thank you.

I believe I forgot to point out that these amendments are all endorsed by the municipal section of the American Bar Association and the American Bar Association itself.

Mr. Hobbs. Thank you.

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94TH CONGRESS
1st Session

HOUSE OF
REPRESENTATIVES

Report
No. 94-686

CHAPTER IX BANKRUPTCY REVISION

DECEMBER 1, 1975.–Ordered to be printed

MR. EDWARDS of California, from the Committee on the Judiciary, submitted the following

REPORT

Together with

SEPARATE AND SUPPLEMENTAL VIEWS

[To accompany H.R. 10624]

The Committee on the Judiciary, to whom was referred the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, having considered the same, report favorably thereon with amendments and recomment that the bill as amended do pass.

The amendments are as follows:

Page 4, immediately after line 12, insert the following new subsection:

(d) DESIGNATION OF JUDGE.–Upon the filing of a petition the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

Page 4, line 19, strike out the colon and all that follows down through but not including the period in line 25.

Page 5, line 16, strike out "mailing" and insert "publication" in lieu thereof.

Page 7, line 10, insert "as soon as practicable after the filing of the petition" after "published" and before the comma.

Page 8, line 17, strike out "of" and insert "to" in lieu thereof.

Page 9, immediately after line 3, insert the following new subsection:

(g) RECOVERY OF SET-OFF.—Any set-off which relates to a contract, debt, or obligation of the petitioner and which set-off was effected within four months prior to the fling of the petition, is voidable and recoverable by the petitioner after hearing on notice. The court may require as a condition to recovery that the petitioner furnish adequate protection for the realization by the person or entity against whom or which recovery is sought of the claim which arises by reason of the recovery.

Page 14, line 16, strike out "or times."

Page 14, line 20, insert "affected by the plain" after "creditors" and before the comma.

Page 16, beginning in line 22, strike out ", if entitled to accept or reject the plan,".

Page 21, line 21, strike out the close quotation mark and the period which follows.

REASONS FOR AMENDMENTS

The first amendment specifies that the Chief Judge of the circuit in which the district in which the petition is filed is located shall designate the judge that will hear the case. For an especially

large case, this allows greater flexibility in selection of a judge, for the Chief Judge of the circuit may appoint a judge that is retired, or does not sit in the district in which the petition was filed. The Chief Judge may thus manage the flow of judicial business better, because he may select from any judge in the circuit, depending on the volume of business pending in various parts of the circuit.

The second amendment deletes the proviso found in current section 83(i), which was added in 1946 to overrule *Faitoute Iron and Steel Co.* v. *City of Asbury Park.*[1] Though it is desirable to have a procedure that adjusts the rights of security holders be uniform throughout the country, the Committee feels that the Contracts Clause of the Constitution places such close restrictions on what the States may accomplish through their own composition procedures, that any nonuniformity that might result from the deletion of the restriction would be minimal and would not outweigh the interests of the States in the management of their own fiscal, affairs, where they are able to manage' effectively without the aid of a Federal municipal adjustments statute.

The third and fourth amendments fix the time within which creditors may object to a petition more precisel, than is currently in the bill, and expedite the publishing of notice required by section 85(d). They also expedite the hearing on the petition by preventing any delay in the filing of the list of creditors required by section 85(b) from

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[1] 316 U.S. 502 (1942).

delaying a hearing on the petition, and the determination of the propriety of the filing.

The fifth amendment conforms language to bankruptcy style.

The sixth amendment allows the petitioner to void and to recover any set-off effected within four months prior to the filing of the petition. The purpose of this amendment is to protect the petitioner from the creditors' race that often occurs before the filing of a petition. Creditors of the petitioner are put on notice that any set-off which they attempt within four months prior to the filing of the petition is voidable and recoverable by the petitioner, and are thereby discouraged from attempting to assert the right of set-off. This subsection accords with section 85(e)(1), which stays set-off after the filing of the petition. Set-off also may give a creditor an unfair advantage over other creditors, and could subvert the fair and equitable requirement of section 94(b)(1).[2]

The court may require as a condition to recovery that the petitioner provide adequate protection for the realization by the creditor against whom recovery is sought of the claim which arises by reason of the recovery. That is, a creditor that offset amounts owing prior to the filing of the petition would have a claim against the petitioner for the amount of the pre-set-off claim munus the amount offset. After recovery, the creditor's claim would increase by the amount of the recovery. The court may require that the petitioner protect the increase in that creditor's claim that arose by

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[2] *Baker v. Gold Seal Liquors, Inc.*, 417 U.S. 467 (197).

reason of the recovery. Such protection might be appropriate where the creditor set-off an amount that was held undeer a compensating balance agreement that was a term of a loan to a petitioner. The compensating balance held by the creditor is essentially collateral for the loan, so that any recovery of set-off by the petitioner under this amendment would amount to use by the petitioner of its creditors' collateral. Such a result is permitted in reorganization cases,[3] but the courts have generally required that the secured creditor be given some protection for the realization by him of the security or its value where the security may, because of its nature, be diminished in value or depleted by the petitioner's use. That is the purpose of the power granted to the court here. In other cases, such as where the creditor is a creditor by virtue of the purchase of the petitioner's securities on the open market for its own portfolio, and is at the same time a depository of the petitioner's funds, recovery of the amount offset would not be a recovery of collateral held by the creditor, and adequate protection of the claim that arises by reason of that recovery might be neither required nor appropriate. The decision in each case is left to the sound discretion of the court.

The seventh amendment is purely technical in nature. It deletes "or times" from the phrase "time or times," as unnecessary, because under Title I of the United States Code, the singular includes the plural.

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[3] In re *Yale Express Systems, Inc.*, 370 F.2d 433 (2d Cir. 1966); In re *Bermec Corp.*, 445 F.2d 367 (2d Cir. 1971). See Regional Rail Reorganization Act Cases, 419 U.S. 102 (1974).

The eighth amendment delimits the creditors to which the plan and any modifications are to be transmitted. The amendment specifies that the plan and any modification be transmitted only to creditors who are affected by the plan. The phrase added by the amendment was inadvertently omitted in the drafting of the bill. This conforms the language to section 93, which defines who may object to the plan, and to section 92(d) which specifies creditors whose acceptance is not required for confirmation. The change will result in potentially great savings in time and in printing and postage costs.

The ninth amendment deletes a redundant and confusing, phrase from section 92(e). No substantive change is intended or accomplished.

The final amendment corrects a printing error in the bill.

PURPOSE OF THE BILL

The bill amends Chapter IX of the Bankruptcy Act. Chapter IX provides a procedure for the adjustment of debts of political subdivision and public agencies and instrumentalities. The procedure is hopelessly archaic and unworkable for all but the smallest entitles. It has not been amended since 1946. In this time of financial crises of many of the country's cities, most notably New York City, but including others as well, the need for a workable reorganization procedure is vital.

The need for and the purpose of the bill have remained unchanged in the 42 years since the first Municipal Bankruptcy Act was passed. As the Committee on the Judiciary of the House said then:

> The controlling purpose of the bill is to provide a forum where distressed cities, counties, and minor political subdivisions of their own volition, free from all coercion, may meet with their creditors under the necessary judicial control and assistance in an effort to effect an adjustment of their financial matters upon a plan deemed mutually advantageous.[4]

The Committee that reported the second Municipal Bankruptcy Act explained further:

> This bill is intended to remove an apparent impasse, and the committee believes that it will be welcomed by debtors and creditors. When a municipality or a taxing district is insolvent, the creditors cannot foreclose their mortgage, or cause public property to be sold and the proceeds distributed. They must look to the exercise of the taxing power over a period of years, or, in cooperation with the debtor district, must grant extensions. This often involves reorganization of part or all, of the debt structure, and hinges upon agreement by debtor and creditor, or on the existence of a Federal statute which may force recalcitrant minority creditors into agreement. Otherwise the creditors of a municipality or a taxing district must resort to mandamus proceedings,

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[4] H.R. REP. No. 207, 73d Cong., 1st Sess. 1 (1933).

which have not been adequate remedies. In fact, the trend of recent decisions has been to deny the writ of mandamus wherever sound judicial' discretion justifies denial. Hence, creditors have been unable to obtain unjust advantage, but the problem of the municipality or taxing district has remained unsolved. *Christmas* v. *City of Asbury Park* (78 Fed. (2d) 1003). For an embarrassed debtor without the remedy afforded by this bill, the only effective recourse is the repeal of its charter by the State legislature, in which event creditors are generally left without any remedy. *Meriwether* v. *Garrett* (102 U.S. 472, 501).

There is no hope for relief through statutes enacted by the States, because the Constitution forbids the passing of State laws impairing the obligations of existing contracts. Therefore, relief must come from Congress, if at all. ...

... [B]ankruptcy statutes were ... intended to provide methods whereby insolvent and failing debtors could be relieved of overwhelming burdens and thus be enabled to make a new start under favorable conditions. ...[5]

HISTORY OF THE BILL

The first municipal debt provisions of the Bankruptcy Act were enacted as emergency

[5] H.R. REP. No. 517, 75th Cong., 1st Sess. 3-4 (1937).

legislation for the relief of distressed minor subdivisions of the states and became effective on May 24, 1934.[6] These provisions were to be operative for a two-year period from that date but this period was later extended to January 1, 1940, by an amendment approved April 10, 1936.[7] The original enactment contained three sections, numbered 78, 79 and 80, and was denominated as Chapter IX. This statute, however, was declared unconstitutional in its entirety by the United States Supreme Court in *Ashton* v. *Cameron Comity Water Improvement District No. 1*,[8] and it was to overcome the effect of this decision that an amended statute containing sections 81, 82, 83, and 84 was added by the Act of August 16, 1937.[9] Originally the amended statute constituted Chapter X of the Bankruptcy Act. This, however, was changed to Chapter IX by the Chandler Act of June 22, 1938.[10]

Chapter IX was amended again twice in 1940, and once in 1946. It has not been revised or updated since then. The first attempt at a major revision of Chapter IX came in 1970, when Congress established the Commission on the Bankruptcy Laws of the United States, by Public Law 91-354, effective July 24, 1970. Mr. Edwards of California and Mr. Wiggins were appointed by

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[6] 48 Stat. 798.

[7] 49 Stat. 1198.

[8] 298 U.S. 513 (1936).

[9] 50 Stat. 654. The former provisions, however, were not repealed. *See* § 83(h).

[10] Additional Provisions, section 3(a), 52 Stat. 839.

the Speaker to serve on the Commission. It became operational June 1, 1970, and on July 30, 1973, filed its final report with the President, the Congress and the Chief Justice of the United States. The result of the Commission's efforts was introduced by Mr. Edwards and Mr. Wiggins in this Congress as H.R. 31. The Rational Conference of Bankruptcy Judges also proposed a major revision of the bankruptcy laws. Their bill was also introduced by Mr. Edwards and Mr. Wiggins as H.R. 32. They are both presently before the Subcommittee on Civil and Constitutional Rights.

The Subcommittee has spent much time over the past two years studying and developing ways to modernize the Bankruptcy Act. It expects to complete a major and total revision and report out recommendations and a bill to the full Committee in the spring of next year. A part of its work on the total revision of the Bankruptcy Act has of course been the consideration of a mechanism to manage the financial troubles of a municipality.

It now seemed appropriate, in light of recent developments concerning prospective financial difficulties of some municipalities, to separate one chapter of the bills dealing with a major revision of the Act and deal with it in advance of the rest. This is the chapter on municipal financial adjustments, Chapter IX of the existing Act.

The bill, which the Committee reported out on November 18, 1975, by a recorded vote of 32 ayes, 0 nays, is the product of those years of study on the revision of the Bankruptcy Act in full; of the thoughts of the Commission on the Bankruptcy Laws of the United States; of the two bills, H.R.

9926 and H.R. 9998, introduced by Badillo of New York and the thoughts of the National Conference of Bankruptcy Judges.

DESCRIPTION OF THE BILL

The bill amends Chapter IX of the Bankruptcy Act to provide a workable procedure so that a municipality of any size that has encountered financial difficulty may work with its creditors to adjust its debts. Though the bill amends the Bankruptcy Act and is proposed under the bankruptcy power,[11] the term "bankruptcy" in its strict sense is really a misnomer for Chapter IX proceedings.

Chapter IX provides essentially for Federal court supervision of a settlement between the petitioner municipality and a majority of its creditors. A municipal unit cannot liquidate its assets to satisfy its creditors totally and finally. Therefore, the primary purpose of a Chapter IX is to allow the municipal unit to continue operating while it adjusts or refinances creditor claims with minimum (and in many cases, no) loss to its creditors.

Because Chapter IX is a procedural mechanism, most of the changes in the proposed revision center on procedural matters. An effort has been made throughout the drafting of this statute to follow current law as much as possible, in order that the bill not be such a departure from settled principles that the changes would have an unsettling effect on other municipalities and their bondholders.

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[11] U.S. Constitution, Art. I, sec 8. cl. 4.

The bill and the changes proposed from current law may be best understood by a description of what occurs when Chapter IX, as it is proposed to be amended by the bill, is utilized. This section reviews in summary form the steps taken and the process which occurs after the filing of a petition for relief under Chapter IX.

A political subdivision or public agency or instrumentality that is eligible for relief may file a petition for relief under this chapter with a district court in whose jurisdiction it is located. It is eligible if it is not prohibited by State law from filing, is insolvent or unable to meet its debts as they mature, and desires to effect a plan of adjustment of its debts. The requirement of obtaining consent from 51% in amount of its creditors to a plan of adjustment prior to filing a petition for relief that exists in current law has been eliminated. This is perhaps the most major change from current law. It is reflected in three sections of the bill—section 84, which describes eligibility requirements, section 90, which specifies when a plan must be filed, and section 85(b), which specifies when the petitioner must file a list of its creditors. The reason for the change is two-fold. First, as the Commission on the Bankruptcy Laws stated in its Report

> The Commission is of the opinion that [the prior consent] requirement is unwise. It allows the petitioner to submit a fait accompli to the judge, thereby creating substantial pressure on the judge to confirm the plan. It also gives those who would seek to depress

> the market price of the securities of an eligible petitioner for improper purposes an excuse for doing so.[12]

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SECTION-BY-SECTION ANALYSIS

SECTION 81

Paragraph (1), the definition of the claims, is derived from Chapter X, section 106(1). This is a change from current Chapter IX in two ways. First, current Chapter IX uses the term "securities" in Section 82 rather than "claim" as a vehicle for defining claims against the petitioner. This was appropriate in the context in which current Chapter IX was written—for the aid of revenue districts and small municipalities whose debts were primarily represented by securities. Yet the definition of securities was rather broad as written, and was further broadened by *Poinsett Lumber Co.* v. *Drainage District No. 7*, F. 2d. 270 (8th Cir. 1941), thus rendering any limitation on scope of claims resulting from the definition in section 82 virtually meaningless. That supplies the reason for the second change: the adoption of the Chapter X definition of claims. Rather than use the list in section 82, the Committee has adopted the broad general definition from Chapter X. The Chapter X definition is "sweeping in its scope." 6 *Collier, Bankruptcy* § 2.05, at 311 (14th rev. ed. 1975).

> Within its purview is any character of a claim against the debtor or its property .

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[12] The Commission on the Bankruptcy Law of the United States, Report, H. Doc. No. 93-137, 93d Cong., 1st Sess. 274 (1973).

> . . whether secured or unsecured, liquidated or unliquidated, fixed or contingent. . . . [I]t should be given a broad construction with respect to claims and creditors in order to dispose of all liabilities of the debtor. ...

6 Collier, supra, at 312-13. It includes as well claims arising out of the rejection of executory contracts under section 88(c).

Paragraph (2) defines court as the court of bankruptcy in which the case is pending, or the judge of that court. This incorporates the definition in section 1(10), which defines the court of bankruptcy as the United States District Court, and follows the form of the definition in section 1(9), which defines court to include the judge of the court of bankruptcy. This definition is necessary to make clear that a case under Chapter IX is to be conducted in the district court, before a district judge, rather than before a referee in bankruptcy. *See* section 87, *infra*, which provides for special reference to a bankruptcy referee.

Paragraph (3) defines creditor as the holder of a claim. This includes, where applicable, the United States, a State or a subdivision of a State. The language in section 82, paragraph 5, that included the United States has been generalized and placed in the definition of creditor, and States and their subdivisions have been included. No change is intended from current law under which a government agency may purchase numerous claims for less than face value and then vote those securities at full face value. *West Coast Life Insurance Co.* v. *Merced Irr. Dist.*, 114 F. 2d 654

(9th Cir. 1940), *cert. denied* 311 U.S. 718 (1941). (Reconstruction Finance Corporation financed refunding of petitioner's debt by purchasing securities from former holders and voting them in support of plan which proposed to pay both the R.F.C. and the security holders who did not sell to the R.F.C. the same amount that the R.F.C. had paid for its holdings.) In the corporate context, a creditor who acquired a security at less than face value is still a creditor to the full amount of the obligation. No reason is apparent why a different result should obtain in Chapter IX. Language is found in current Chapter IX, section 82, which makes this explicit, but is deleted in this bill as unnecessary.

Paragraph (4) defines claim affected by the plan as a claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified. This paragraph is derived from current section 82, paragraph 5. The term "adversely" is added to conform the language to that used in Chapters X and XI (*See* sections 107, 308). By analogy to "claim affected by the plan" and to sections 107 and 308, "creditor affected by the plan" as used throughout the bill has the same meaning—one whose claim is proposed to be materially and adversely adjusted or modified by the plan.

Paragraph (5) defines debt as a claim allowable under section 88(a). This definition is primarily for convenience, equating debt and claim, as defined. However, the phrase "allowable under section 88(a)" does potentially limit the definition. The broad definition of claim, and the broad

allowability rules of section 88(a) make this limitation more theoretical than real. To the extent that it exists, it is a limitation on the claims which may be dealt with by the plan, *see* section 91.

Paragraph (6) defines petitioner for convenience only. No substantive or limiting result is intended.

Paragraph (7) defines plan for convenience only. It makes clear that any reference to a plan is to a plan filed under this chapter.

Paragraphs (8) and (9) define special tax payer affected by the plan. They are derived from section 83(a), paragraph 2, of the current law, and are included to provide continuity with that law. The purpose of their inclusion at all in a case under this chapter is to protect their rights as tax payers against a change without a hearing in the assessed valuation of their land. A special tax payer is one who pays a special tax, that is, a tax the proceeds of which are the sole source of payment of a bond issue. This form of financing was common prior to the first municipal bankruptcy act, and the inclusion of a provision for special tax payers was to meet that need. The financing was done in connection with irrigation, drainage, or other sorts of districts, where the local improvement that was financed by the bond issue benefited the land served by the district. That is why the revenue for their repayment was derived from a tax based on the value of the land. Under the definition, a special tax payer is affected by the plan only if the plan proposes to change the assessed value of his land out of proportion to any other changes in assessed value proposed by the plan generally for the owners of land liable for the special tax.

SECTION 82

Section 82 delimits the powers and the jurisdiction of the court in a Chapter IX case. Subsection (a), derived from § 81 of the current law, gives the court in which the petition is filed exclusive original subject matter jurisdiction for the adjustment of the petitioner's debts, that is, exclusive original jurisdiction over Chapter IX cases. The term "original" is inserted to make clear that the jurisdiction of the court is exclusive only with respect to original jurisdiction; the appellate procedures defined in section 24 of the Bankruptcy Act are not disturbed. Matters arising in a Chapter IX case are appealable to the courts of appeal and to the Supreme Court, the same as in any other chapter case. The court in which the petition is filed is also given exclusive personal jurisdiction over the petitioner and its property, wherever located, for the purposes of this chapter. This restates prior case law, *Poinsett Lumber & Mfg. Co.* v. *Drainage Dist. No. 7*, 119 F.2d 270, 272 (8th Cir. 1941) ("Upon the approval of the debtor's petition as properly filed the resources of the debtor come within the exclusive jurisdiction of the bankruptcy court."). This does not mean that the court has exclusive jurisdiction over the petitioner with respect to all cases, but rather only for the purposes of this chapter. That might include such matters as disputes over property subject to a lien, or disputes concerning claims against the petitioner that could be dealt with under Chapter IX. *5 Collier, Bankruptcy* § 81.10, at 1572 (14th rev. ed. 1975) ("... [T]he resources of the debtor come within the exclusive jurisdiction of the bankruptcy court. That court has exclusive and nondelegable control

over the administration of the debtor's estate within the terms of Chapter IX, and ordinarily, therefore, the court is the proper place to litigate and adjudicate claims against the debtor."). The language of this subdivision is virtually identical to that of § 111 (Chapter X) and § 311 (Chapter XI) of the present Act.

Subsection (b) grants the court powers similar to those granted to the reorganization court in sections 77(b), (c)(3); 116(1), (2); and 313(1) and 344—to permit the rejection of executory contracts, and the issuance of certificates of indebtedness after hearing on notice. *See Texas Importing Co.* v. *Banco Popular de Puerto Rico,* 360 F.2d 582 (5th Cir. 1966). The powers designated here are considered necessary to the continued functioning and subsequent rehabilitation of the petitioner. Accordingly, the language of subparagraph (1) is broad in scope. See generally, Countryman, Executory Contracts in Bankruptcy: Part II, 58 Minn. L. Rev. 479 (1974). Certificates of indebtedness are common in debtor-relief cases, see, e.g., In Re Third Avenue Transit Corp., 198 F.2d 703 (2d Cir. 1952); In Re Prima Co., 88 F.2d 785 (7th Cir. 1937); *8 Collier, Bankruptcy* § 6.40(4), at 970 (14th rev. ed. 1975) ("Section 344 is usually resorted to where the business is being operated, but it essentially contemplate transactions of an unusual character, although not actually limited to such."), as is the rejection of executory contracts. The abundant case law surrounding these two provisions is meant to be incorporated into Chapter IX. For example, the court may permit the rejection only after hearing on notice, *Texas Importing*, supra, and only for the reasons that

have been, established by case law under Chapters X and XI. In summary, these reasons are that the contract is onerous and burdensome, and its rejection will aid the petitioner in its reorganization and rehabilitation attempt. With respect to labor contracts, the courts have taken a slightly different position on the grounds for rejection, requiring a showing of a greater burden on the petitioner. *Shopmen's Local No. 455* v. *Kevin Steel Products, Inc.*, 1 Bankr. Ct. Dec. 1432 (2d Cir. 7-24-75); *Brotherhood of Railway Employees* v. *REA Express, Inc., 1 Bankr. Ct. Dec.* 1237 (5th Cir. 8-27-75); In Re Overseas Airways, 238 F. Supp. 359 (E.D.N.Y. 1965).

Under paragraph (3), the court may also exercise such other powers as are not inconsistent with the provisions of Chapter IX. This paragraph supplements section 2 of the Bankruptcy Act by giving the court those powers not mentioned in section 2 yet necessary to the disposition of cases under Chapter IX

Subsection (c) repeats and broadens the limitation in section 83(c), paragraph 1, of current law on the power granted to the court under subsection (b) and elsewhere in the chapter, by prohibiting any interference by the court, by any order or decree, in any of the political or governmental powers of the petitioner; any of the property or revenues of the petitioner, or any income producing property of the petitioner, or which is used or enjoyed by the petitioner. The Committee feels that this limitation is required by *Ashton* v. *Cameron Water Imp. Dist. No. 1*, 298 U.S. 513 (1936), and *United States* v. *Bekins*, 304 U.S.

27, *rehearing denied*, 304 U.S. 589 (1938), which defined the limits of Congress' power under the bankruptcy clause, and the extent to which Congress may grant power to the courts to assist in the management of the affairs of a distressed municipality.

The changes in this subsection are two; first, the phrase "unless the petitioner consents" is added in order to codify the result of the case of *Leco Properties* v. *R. E. Crummer*, 128 F. 2d 110 (5th Cir. 1942,), in which a municipality that had failed to have a composition confirmed was ordered, and consented to, leave the amount deposited with the court for distribution under the plan with the court so that it might distribute that portion to creditors in an orderly fashion; and the case of *Wave* v. *R. E. Crummer & Co.*, 128 F. 2d 114 (5th Cir.) *cert. denied*, 317 U.S. 644 (1942), in which the Court of Appeals reversed a similar order where the petitioner did not consent. The phrase is not intended, however, to overrule the result of *Spellings* v. *Dewey*, 122 F. 2d 652 (8th Cir. 1941), in which the Court of Appeals reversed the District court's injunction against the election of Drainage District Commissioners upon the allegation of the incumbent; Commissioners that the challengers would not execute the proposed plan, even though the incumbent Commissioners were, in effect, the District itself for the purpose of determining whether the petitioner consented to an order of the court.

The second change broadens the limitation by eliminating the phrase "necessary for essential governmental services" from the second paragraph

of the subsection. The phrase was deleted for three reasons. First, the words "necessary" and "essential" were conducive to litigation. Second, and more importantly, the Supreme Court in *New York* v. *United States*, 326 U.S. 572 (1946), abolished the distinction between governmental and proprietary functions. Thus, it is now appropriate to prohibit interference by the court in any of the municipalities' functions, for they are all equally governmental functions.

Third, the limitation, on interference with any income-producing property, seems to deprive the qualification "essential for necessary governmental services" of any effect. Under one, the court is denied the power to interfere with property necessary for governmental services; under the other, the court may not interfere with any income-producing property. There is conceivably a third category of property, non-income-producing property that is not necessary for essential governmental services, but the existence of that category does not warrant the potential for litigation that exists with the old language. In any case, no constitutional problem is anticipated, because the power of the court to interfere with the petitioner is further limited by the change.

The phrase "any income-producing property" appears broad. It is copies from current law without qualification, because there exists some ambiguity in its meaning. Rather than attempting to define it to eliminate the ambiguity; it was left as is so that the courts might interpret it as they have done in the past consistent with the purposes of Chapter IX and the powers of the court.

SECTION 83

The purpose of section 83, copied from present section 83(i), is the same as that of section 82(c). It is to prevent the statute or the court from interfering with the power constitutionally reserved to the State by the Tenth Amendment. This section makes it clear that the chapter may not be construed to limit or impair the power of the State to control, by legislation or otherwise, any municipality, political subdivision or public agency or instrumentality in the exercise of its governmental functions. Any State law that governs municipalities or regulates the way in which they may conduct their affairs controls in all cases. Likewise, any State agency that has been given control over any of the affairs of a municipality will continue to control the municipality in the same way, in spite of a Chapter IX petition.

The proviso in current section 83(i), retained here, prohibiting state composition procedures was enacted in response to, and overruled the holding of the Supreme Court in, *Faitoute Iron & Steel Co.* v. *City of Asbury Park*, 316 U.S. 502 (1942). In that case, the court upheld a New Jersey statute that permitted a binding composition of a municipality's debts upon the acceptance of a plan by 85% of the municipality's creditors. The composition dealt only with unsecured obligations, and the state statute prohibited reduction in the principal amount of the outstanding obligations. The Court refused to go beyond the facts of the case, holding only that the Contracts Clause of the Constitution did not prohibit that particular composition.

The proviso is retained for the same reason it was enacted by Congress:

> State adjustment acts have been held to be valid, but a bankruptcy law under which the bondholders of a. municipality are required to surrender or cancel their obligations should be uniform throughout the [United] States, as the bonds of almost every municipality are widely held. Only under a Federal law should a creditor be forced to accept such an adjustment without his consent. H.R. Rep. No. 2246, 79th Cong., 2d Sess. 4 (1946).

* * *

SEPARATE VIEWS OF HON. ELIZABETH HOLTZMAN ON H.R. 10624

The Committee bill, as far as it goes, is a well-drafted, technically sound revision of the law on municipal bankruptcy. I supported it, however, only with the gravest misgivings.

I. THE BILL FAILS TO PROVIDE OPERATING CASH

This bill has a serious, if not fatal, flaw. It fails to provide any effective mechanism for a municipality to raise operating cash while in bankruptcy.

The Judiciary Committee recognized the need to provide a mechanism for raising operating capital. It understood that operating capital is essential if a municipability in bankruptcy is to survive—that is, to provide such services as police and fire protection garbage pick-ups, and education. If New York City, for example, had defaulted in early

December, even if it had stopped all payments for debt service, it would have had a net operating deficit for the subsequent five months of $1.2 billion.

The Judiciary Committee allows a municipality to raise operating capital through the device of "certificates of indebtedness." Thus, the Committee contemplates that after bankruptcy, a municipality would with court approval sell its bonds—now called certificates of indebtedness—and thereby raise operating cash. But as a practical matter, certificates of indebtedness of a bankrupt municipality are not likely to be marketable in the absence of a federal guarantee.

The Subcommittee on Civil and Constitutional Rights held no hearings on the marketability of unguaranteed certificates. We do know, however, that in the 1930's, when the first municipal bankruptcy provisions were enacted, municipalities needed loans or loan guarantees from the Reconstruction Finance Corporation in order to continue to operate. More recently, trustee's certificates in the Penn Central bankruptcy were not salable without a federal guarantee.

A mechanism for guaranteeing bonds of a municipality in bankruptcy is contained in the House Banking and Currency bill, H.R. 10481. If, however, the Judiciary Committee's bill (H.R. 10624) reaches the floor without any such mechanism provided in an accompanying bill, I will offer an amendment to ensure that federal guarantees are available for a bankrupt municipality in need of operating cash.

Any bankruptcy bill that fails to provide an effective mechanism for a municipality to raise operating cash during bankruptcy is an illusory remedy—a court-supervised road to disaster.

II. MUNICIPAL BANKRUYPTCY IS UNSOUND NATIONAL POLICY

Bankruptcy does not represent a sensible national policy for dealing with the fiscal problems of municipalities.

Many large municipalities in this country are in serious trouble. The basic reasons are: an increasing welfare burden, high unemployment and the steady flight of middle class taxpayers and business which has eroded the city's tax base. These problems are rooted in national policy and are the direct result of federal action or inaction. While fiscal mismanagement of cities can aggrevate these problems and bring crises to a head, the economic viability of our cities cannot be assured until these underlying problems are resolved.

Bankruptcy provides no answer to the root causes of municipal fiscal troubles or the problems of mismanagement. In fact, bankruptcy, with its uncertainties and stigma, may well aggravate these problems. If municipal services continue to deteriorate and taxes continue to rise, the departure of business and the middle class, will undoubtedly accelerate. Thus, the affected city will become even less capable than before of meeting the needs of its citizens.

Bankruptcy is an exceedingly complex, time consuming, and cumbersome mechanism for resolving a cities problems with its creditors

It is reported that the average corporate reorganization case in the Southern District of New York takes eight years to resolve. How much longer will it take to resolve a municipal bankruptcy under a new and untried bankruptcy law? What assurance is there that the well being of 8 million people will be adequately protected during this protracted litigation?

Finally, making ft easier for municipalities to go into bankruptcy takes us down an unknown and possibly dangerous path. Municipal bonds may now become a vastly more risky investment. If so, it may be more difficult and costly for municipalities to borrow money in order to build schools, hospitals, and other public buildings, or even to bridge the seasonal gaps between revenues and expenditures. The consequences of such a reduction in municipal credit for the nation's economy and taxpayers are potentially enormous.

Despite all these misgivings, I supported H.R. 30624 because we on the Judiciary Committee were forced to choose between the wrong answer to the fiscal problems of major municipalities and no answer at all. Congress does not face the same choice. I hope it will , act wisely, in the long term interest of all Americans, to produce legislation designed to remedy the basic causes of the crisis of our cities—legislation designed to prevent rather than facilitate municipal bankruptcy.

ELIZABETH HOLTZMAN.

SUPPLEMENTAL VIEWS OF MESSRS. BUTLER, KINDNESS, HUTCHINSON, McCLORY, MOORHEAD OF CALIFORNIA, AND HYDE, WITH MR. WIGGINS CONCURRING IN PART AND DISSENTING IN PART

H.R. 10624, which revises Chapter IX of the Bankruptcy Act, represents a bipartisan effort to modernize a highly technical law. Original proposals of the administration and Democrat leadership were melded into a bill that was favorably reported by a unanimous House Committee on the Judiciary on November 18,1975, the result of careful deliberations of both the Subcommittee and full Committee. Forty amendments were offered, of which twenty-five were accepted, most often unanimously. The finished product contains clearly indicated improvements in the present law and is one in which all Members of the House Committee on the Judiciary can take pride.

While there are areas of disagreement and concern, the need for the legislation is clear and we urge its immediate adoption. We do think it appropriate, however, to point out certain concerns which remain.

I

RE REJECTION OF EXECUTORY CONTRACTS

Chapter X of the Bankruptcy Act concerns corporate reorganizations; Chapter XI concerns arrangements in bankruptcy; and Chapter XIII permits wage earner extensions and compositions. In each of these instances the trustee in bankruptcy or the debtor in possession, as the case

may be, is permitted to reject executory contracts. No such power exists under Chapter IX of the present Bankruptcy Act which is, of course, concerned with municipal bankruptcy.

Section 82(b)(1) of the legislation now before us permits the petitioning municipality, upon filing its petition and thereafter, to reject executory contracts with the permission of the court.

Although there are no standards in the legislation for determining the circumstances under which rejection of executory contracts will be permitted by the court, existing case law makes it clear that executory contracts must be burdensome or onerous before they may be rejected. Although there are problems involved in determining exactly what constitutes an executory contract, it is apparent that the term encompasses substantially all contractual obligations of the petitioning municipality including vendor contracts and collective bargaining agreements.

The Committee report indicates that even though executory collective bargaining agreements may be rejected, certain collective bargaining agreement may have to be renegotiated pursuant to State law and existing terms and conditions of employment would have to be maintained subsequent to rejection because of certain provisions of State law.

* * *

A memorandum prepared by the attorneys for the City of New York expressly states that this legislation may be challenged in the following language:

> There are State constitutional limitations on the amount and type of permitted debt. Under the 10th amendment contentions may be made that a federal statute cannot pre-empt these limitations, and, accordingly, that both the plan of composition as well as any interim financing have to comply with these limitations. This may be a source of litigation.

This is consistent with what was pointed out in paragraph II that the control the bankruptcy court retains over the power of the municipality to issue certificates of indebtedness could be the basis for constitutional challenge.

The constitutionality of existing Chapter IX has been established. It is a workable piece of legislation for smaller municipalities. It is only when we get to the larger and more complex financial structure of cities such as the size of New York that its shortcomings become apparent.

It is well to point out that section 108 of title I of the United States Code provides that if the new Chapter IX is repealed that it does not revive the previous legislation. The repeal is effective then regardless of what subsequent constitutional development occurs.

Accordingly, if the proposed Chapter IX is enacted and found to be unconstitutional, the replaced Chapter IX would in all probability not be revived and the municipalities of the country would be left without any available remedy in the bankruptcy court.

Of greater significance however is the effect of a constitutional challenge during the period of its litigation. We may very well be facing a time in which there will be more financial distress of municipalities or other governmental entities than ever before. It would be ironical indeed if our efforts to provide relief for them should place even the present, remedies out of reach because of litigation in which the powers bestowed by this Chapter are in question. It is unreasonable to think that certificates of indebtedness issued under proposed Chapter IX would be marketable as long as their validity was subject to pending litigation challenging the constitutionality of the new Chapter IX.

In view of the almost certain constitutional challenge of the provisions of proposed Chapter IX and the importance of maintaining existing remedies, and in further view of the fact that the legislation which we have before us was created and tailored for the one purpose of protecting the City of New York, it is most appropriate to limit the exposure to constitutional challenge and to limit the adverse effects of a successful challenge.

Accordingly, it is our present intention to offer an amendment in the nature of a substitute which would incorporate all the changes in the proposed legislation with one addition: instead of revising existing Chapter IX, the legislation would create an additional Chapter XVI with remedies limited in scope to cities with a population exceeding one million people.

In addition to limiting exposure to challenge, there are at least two other reasons why it is appropriate that this be done:

1. The legislation which we are undertaking to enact at this moment makes it quite easy for a municipality to abrogate either temporarily or permanently, in one way or another, its contractual obligations; and every municipality that has the potential of receiving the benefits of this Act also has the comparable benefits of an easy way to get out from under its indebtedness. Under these circumstances, securities are going to be less marketable and interest costs greater.

There is no real reason why well managed municipalities should pay the high costs that will result from changes designed to benefit New York City. Chapter IX has worked well for municipalities with a. manageable number of creditors and it should continue to do so.

2. Limiting the availability of this relief to cities with populations of at least one million persons will allow the constitutionality of this bill to rest on the commerce power as well as upon the bankruptcy power.

Cities with populations of at least one million persons clearly impact the commerce of the country. Such is not the case with many small sewer or drainage districts eligible for relief under Chapter IX.

The legitimate impact on commerce caused by the bankruptcy of a major municipality justifies use of the commerce power to infringe State sovereignty by allowing the rejection of executory

contracts and the issuance of certificates of indebtedness. While it may be argued that these powers may impair State sovereignty beyond the scope of the bankruptcy power, they are clearly constitutional under the commerce power.

VI

RE PREFERENCES

A matter of concern has been the problem of prepetition set-offs and preferential transfers whereby a creditor is made better off than he would be in bankruptcy. An amendment was accepted by the Committee protecting the petitioner against set-offs within four months of bankruptcy. Subsequent reflection indicates that even this does not go far enough.

There is no real reason why the power to set aside transfers prior to bankruptcy under appropriate circumstances should not be the same in municipal bankruptcy as it is in other bankruptcies. We note with interest that the Senate Judiciary Committee has so concluded.

Accordingly, we intend to offer an amendment to incorporate into the legislation before us the avoiding powers of Sections 60(a), (b), (c), 67, 70(c) and (e) of the Bankruptcy Act. These avoiding powers are presently available in straight bankruptcy and under Chapters X, XI, XII, and XIII of the Bankruptcy Act.

The undersigned Members ascribe to the above stated views.

M. Caldwell Butler.
Thomas N. Kindness.
Edward Hutchinson.
Eobert McClohy.
Carlos J. Moorhead.
Henry J. Hyde.

The undersigned Member concurs in all but paragraph III of the above stated views.

Charles E. Wiggins.

* * *

94th Congress
2d Session

HOUSE OF REPRESENTATIVES

Report
No. 94-938

MUNICIPAL BANKRUPTCY LAW REVISION

MARCH 22, 1976
Ordered to be Printed

Mr. EDWARDS of California, from the committee of conference, submitted the following

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CONFERENCE REPORT
[To accompany H.R. 10624]

The committee of conference on the disagreeing votes of the two Houses on the amedments of the Senate to the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, having met, after full and free conference, have been unable to agree.

DON EDWARDS,
JOHN SEIBERLING,
ROBERT F. DRINAN,
HERMAN BADILLO,
CHRISTOPHER J. DODD,
M. CALDWELL BUTLER,
THOMAS N. KINDNESS,
Managers on the Part of the House.
QUENTIN BURDICK,
PHILLIP A. HART,
JIM ABOUREZK,
ROMAN L. HRUSKA,
HIRAM L. FONG,

Managers on the Part of the Senate.

* * *

The Senate amendment permitted the court to enforce the conditions attached to certificates of indebtedness, notwithstanding the limitation on the court's power prohibiting it from interfering with municipal powers in § 82(c); S. § 805(g); S. Rep. 17. The House bill had no comparable provision. The proposed text adopts the House version. The deletion of this provision from the Senate amendment is not meant to remove from the court of bankruptcy the jurisdiction or power to hear and decide disputes over noncompliance with certificates of indebtedness. Rather, because certificates are generally issued as short-term obligations, payable before or at confirmation of the plan, because the court is given exclusive personal jurisdiction over the petitioner for the purposes of this chapter under subsection (a), and because all judicial proceedings in other courts are stayed under section 85(e) (1), it is contemplated that the court of bankruptcy will be the only forum in which such disputes are determined.

The House bill vitiated the limitation on the court's power when the petitioner consented to a court action. H.R. § 82(c); H. Rep. 18. The Senate amendment contained no comparable provision. The proposed text adopts the House version.

The House bill prohibited any "order or decree" of the court from interfering with the petitioner's governmental powers. H.R. § 82(c); H. Rep. 18. The Senate amendment prohibited any "stay, order or decree" from so interfering. S. § 805(g). The

proposed text adopts the Senate version as a clarification that the limitation on the court's power includes a limitation on the automatic stay of section 85(e) (1), which is not imposed by a court "order or decree".

The House bill prohibited court interference with "property of the petitioner". H.R. § 82(c)(2); H. Rep. 18-19. The Senate amendment prohibited court interference with "property of the petitioner necessary for essential governmental services". S. § 805(g). The proposed text adopts the House version.

The House bill prohibits court interference with any "income producing property". H.R. § 82(c); H. Rep. 18-19. The Senate amendment prohibits court interference with "the petitioner's use or enjoyment of any income producing property". S. § 805(g). The proposed text adopts the Senate version. See H. Rep. 18-19.

SECTION 83

The House bill deleted the proviso in current § 83(i) that prohibits state composition procedures. H.R. § 83; H. Rep. 2, 19. The Senate amendment retained the proviso. S. § 801(d); S. Rep. 15. The proposed text adopts the Senate version.

SECTION 84

This section defines which entities are eligible for relief under this chapter. The House bill included a "political subdivision or public agency or instrumentality". H.R. § 84; H. Rep. 20. The Senate amendment included the same terms, plus "municipality". S. § 803(a); S. Rep. 16. The proposed text adopts the House version.

The House bill required only that an entity not be "prohibited by state law from filing a petition under this chapter". H.R. § 84; H. Rep.....

* * *

95th Congress *1st Session* | House of Representatives | Report No. 95-595

BANKRUPTCY LAW REVISION

SEPTEMBER 8, 1977.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. EDWARDS of California, from the Committee on the Judiciary, submitted the following

REPORT

together with

SEPARATE, SUPPLEMENTAL, AND SEPARATE ADDITIONAL VIEWS

[Including Cost Estimate of the Congressional Budget Office]

[To accompany H.R. 8200]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8200) to establish a uniform law on the subject of Bankruptcies, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass. The committee amendment strikes out all after the enacting clause and inserts a new text, which appears in italic type in the reported bill.

The amendment is an amendment in the nature of a substitute for the bill, incorporating six substantive amendments adopted by the committee, and numerous technical, drafting, and

style changes to the bill. A detailed description of the six amendments adopted during committee deliberations is incorporated into the description of the bill contained in this Report, which addresses itself to the amendments in the nature of a substitute. Briefly summarized, they are as follows:

The first amendment provides an alternative to the United States trustee in the appointment of private standing chapter 13 trustees. The amendment permits United States trustees, with the approval of the Attorney General, to employ private standing trustees or public assistant United States trustees to serve in chapter 13 cases.

The second amendment limits the consumer priority in § 507(5) of proposed title 11 to $2,400 per individual.

The third amendment changes section 303(b) of the bill to delete the repealer of section 4(e) of the Perishable Agricultural Commodities Act and replace the repealer with an amendment to section 4(e) of that Act to allow suspension of a license in the event of bankruptcy if the circumstances of the bankruptcy warrant. This changes current law, which does not so limit the Secretary's discretion in determining whether to suspend the license in the event of bankruptcy.

The fourth amendment, agreed to by roll call vote of 18 to 13, struck certain special retirement provisions for transition service by bankruptcy judges, which were contained in sections 408 and 409 of the bill.

The fifth amendment places a $100,000 limit on contributions to the Referees' Salary and Expense Fund in chapter XI cases.

The final amendment, which was incorporated into the amendment in the nature of a substitute and not considered separately, makes the four special tax provisions contained in the proposed bankruptcy code (sections 346, 728, 1146, and 1331) inapplicable to Federal taxes.

INTRODUCTION

I. HISTORY

In 1970, Congress created the Commission on the Bankruptcy Laws of the United States to study and recommend changes in the bankruptcy laws.[1] The Commission became operational in June, 1971, and filed its final report with the Congress on July 30, 1973.[2] Its report was in two parts. Part I contained the Commission's findings and

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[1] Established by Pub. L. 91-354, Act of July 24, 1970, 84 Stat. 468, the Commission consisted of nine members. Three, including the chairman, were appointed by the President: Chairman Harold Marsh, Jr., Los Angeles, Calif.; Charles Seligson, New York, N.Y.; and Wilson Newman, Short Hills, N.J. Two each were appointed by the Speaker of the House and the President of the Senate: Hon. Don Edwards (D., Calif.), Hon. Charles B. Wiggins (R., Calif.), Hon. Quentin N. Burdick (D., N. Dak.), and Hon. Marlow W. Cook (R., Ky.). Two were appointed by the Chief Justice: Hon. Edward Weinfeld (S.D.N.Y.), and Hon. Hubert L. Will (N.D. Ill.). The study leading to the creation of the Commission actually began in 1968, when the Subcommittee on Bankruptcy of the Senate Committee on the Judiciary began hearings. *Hearings on S.J. Res. 100 Before the Subcomm. on Bankruptcy of the Senate Comm. on the Judiciary*, 90th Cong., 2d Sess. (1968).

[2] H.R. Doc. No. 93-137 (1973).

recommendations. Part II contained a draft of a bill to implement those recommendations. Don Edwards, Chairman of the Subcommittee on Civil and Constitutional Rights and a Member of the Commission, and Charles Wiggins, then ranking minority Member of the Subcommittee and also a Member of the Commission, introduced that bill in the 93d Congress as H.R. 10792.[3]

The National Conference of Bankruptcy Judges disagreed with major aspects of the Commission's bill, and drafted and proposed an alternative. The Judges bill was also introduced in the 93d Congress by Messrs. Edwards and Wiggins as H.R. 16643.[4] In the 94th Congress, both of these bills were again introduced, as H.R. 31 and H.R. 32, respectively.[5]

Hearings began on both bills in the 94tli Congress in May, 1975, and continued until May, 1976. The hearings were extensively publicized in the Congressional Record, and all interested parties were encouraged to present views to the Subcommittee. There were 35 days of hearings, over 100 witnesses, and over 2,700 pages of testimony.[6] The hearings covered every aspect of bankruptcy law, from the structure of the

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[3] 93d Cong., 1st Sess. (1973).

[4] 93d Cong., 2d Sess. (1974).

[5] 94th Cong., 1st Sess. (1975).

[6] *Hearings on H.R. 31 and H.R. 32 Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary*, 94th Cong., 1st and 2d Sess., ser. 27 (1975-76). The Senate also conducted extensive hearings, *Hearings on S. 235 and S. 236 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary*, 94th Cong., 1st Sess. (1975).

bankruptcy system to the jurisdiction of bankruptcy courts, from consumer bankruptcy to business reorganizations, from the interaction of the securities laws with bankruptcy to the tax aspects of bankruptcy, from railroad reorganization to commodity broker liquidation.

After the hearings were completed, the process of bill drafting began. The result was H.R. 6,[7] cosponsored by Chairman Edwards, and by Mr. Butler, current ranking minority Member of the Subcommittee. Since the introduction of H.R. 6, the Subcommittee has received numerous comments from the bench, the bar, and academia.

The Subcommittee on Civil and Constitutional Rights began mark-up of the bill on March 21,1977. Mark-up continued for 22 days, spread over eight weeks. The Members of the Subcommittee examined and discussed every one of the over 300 sections of the bill during its forty-two hours of mark-up, in addition to its debate on the bill as a whole. Over 120 amendments were proposed and debated. Over 100 were adopted. The Subcommittee completed its work on the bill on May 16, 1977, when it reported the bill favorably by a roll call vote of 7-0. The bill as amended, with numerous additional technical, drafting, and style corrections, was ordered introduced as a clean bill. Chairman Edwards, joined by the other Members of the Subcommittee, introduced H.R. 8200[8] on July 11, 1977.

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[7] 95th Cong., 1st Sess. (1977).

[8] 95th Cong., 1st Sess. (1977) [hereinafter cited as H.R. 8200].

The Committee on the Judiciary began deliberations on the bill on July 14, 1977, and continued work on July 15, and July 19. On July 19, the bill was ordered reported by a roll call vote of 26-3, with one Member voting present.

On July 19, the Committee was informed of a potential jurisdictional conflict with the Ways and Means Committee over certain tax provisions in the bill.[9] The Chairmen of the two Committees met to reach an agreement on the proper disposition of the potential claim of jurisdiction asserted by the Ways and Means Committee. Under the agreement, the Ways and Means Committee would not request a sequential referral of the bill if the Judiciary Committee made the four special tax provisions contained in the bankruptcy code proposed by the bill inapplicable to Federal taxes.[10]

On September 8, the Committee on the Judiciary met to consider the proposal. The Committee voted to reconsider the vote to report H.R. S200, adopted the amendment in the nature of a substitute, and once again ordered the bill reported favorably, by a roll call vote of 23-8.

II. MAJOR PROVISIONS

The major purpose of this bill is the modernization of the bankruptcy laws. The substantive law of bankruptcy and the current bankruptcy system was designed in 1898,[11] in the

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[9] Letter from Chairman Al Ullman to Chairman Peter W. Rodino, Jr., July 19, 1977.

[10] H.R. 8200 § 101 (proposed 11 U.S.C. 346, 728, 1146, 1331).

[11] Act of July 1, 1898. c. 541. 30 Stat. 544.

horse and buggy era of consumer and commercial credit, and was last overhauled in 1938,[12] nearly 40 years ago. It has only been since 1938 that the consumer credit industry has grown: and it has only been since the widespread adoption of the Uniform Commercial Code in the early 1960's that commercial credit has grown to its present magnitude. As the issue of bankruptcy has fallen from the national consciousness since the Great Depression in the 1930's, the bankruptcy system has fallen into disrepair. Those once primarily responsible for its operation and maintenance, the district judges, have turned to other matters and neglected their bankruptcy responsibilities. The bankruptcy judges instead have taken over prime responsibility for the operation of the system, even though their offices are not designed statutorily to perform those duties. Both substantively and administratively, the bankruptcy system is straining on all sides to handle situations that the framers of the current law never dreamed would arise.

The Bankruptcy Commission found, and hearings before the Subcommittee on Civil and Constitutional Rights confirmed, that the most severe problem in the bankruptcy administration was the court system. The problem consists of two facets. First, the bankruptcy court today is not truly and completely a court. It is not independent. It must operate under the supervision of an unconcerned district court. This supervision has hampered bankruptcy court operations both administratively and substantively. This bill gives

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[12] Act of June 22, 1938, c. 575, 52 Stat. 840.

the bankruptcy court the independence it needs to operate in today's complex bankruptcy world. [13]

Second, the bankruptcy judge, because of the duties imposed upon him under the Bankruptcy Act, must take an active role in supervising and administering a bankruptcy case. No matter how fair a bankruptcy judge is, his statutory duties give him a certain bias in a case, and the bankruptcy court as a result has been viewed by many as an unfair forum. The bill removes many of the supervisory functions from the judge in the first instance, transfers most of them to the trustee and to the United States trustee, and involves the judge only when a dispute arises. Because the judge no longer will have to take an active role in managing bankruptcy cases, the bankruptcy court should become a forum that is fair in fact and in appearance as well.

Some of the supervisory functions removed from the judge will be transferred to a new system of United States trustees who will act as bankruptcy watchdogs, overseeing the qualifications and appointments of private trustees in bankruptcy cases, supervising their performance, monitoring their fees, and serving as trustees in cases where a private trustee cannot be found to serve.[14]

The second major problem under current bankruptcy law is the inadequacy of relief that the Bankruptcy Act provides for consumer debtors. The last major revision of the Bankruptcy Act was in 1938, before any significant amount of consumer

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[13] *See* chapter 1, *infra*.

[14] *See* chapter 2, *infra*.

credit had been extended. In the post-War years, consumer credit has become a major industry, and buying on time has become a way of life for a large segment of the population. The bankruptcy rate among consumers has risen accordingly, but without the required provisions in the Bankruptcy Act to protect those who need bankruptcy relief. This bill makes bankruptcy a more effective remedy for the unfortunate consumer debtor.[15]

This is not primarily a debtor's bill, however. The bill codifies creditors' rights more clearly than the case law, which is in many ways just developing. It defines the protections to which a secured creditor is entitled, and the means through which the court may grant that protection.[16] In the consumer area, proposed chapter 13 encourages more debtors to repay their debts over an extended period rather than to opt for straight bankruptcy liquidation and discharge.[17]

The Bankruptcy Act now contains four chapters for commercial re-organizations.[18] These chapters, and the divisions between them, were written in the 1930's, at a time when the law of commercial reorganization was little developed. The experience and development of the past forty years has made the current four chapters difficult to use, and the divisions between them have been shown to 'be arbitrary and of limited utility. The bill consolidates all four chapters into one business

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[15] *See* chapter 3, *infra*.

[16] *See* chapter 4, *infra*.

[17] *See* chapter 3, *infra*.

[18] Bankruptcy Act, cc. VII, X, XI, XII.

reorganization chapter (with some special provisions for railroad reorganizations) and rationalizes the various forms of relief available to a failing business, making a busness reorganization a quicker, more efficient procedure, and providing greater protection for debtors, creditors, and the public interest.[19]

Commercial financing has undergone significant changes since the nearly universal adoption of the Uniform Commercial Code in the 1960's. The Bankruptcy Act has not yet been revised to account for the changes in the industry. The bill modernizes bankruptcy law in its interaction with commercial financing, in the areas of preferences and protection of both the debtor and secured creditors during a bankruptcy case.[20]

III. STRUCTURE OF THE BILL

The bankruptcy bill is divided into four titles. Title I, consisting only of Section 101, codifies and enacts title 11 of the United States Code, entitled "Bankruptcy." Title 11 of the Code will contain the substantive, and much of the procedural, law of bankruptcy. This is the heart of the bill.

Title II is a series of amendments to title 28 of the United States Code. Title 28 of the Code, entitled Judicial Code and Judiciary, is the title that establishes the Federal Judiciary, and contains the organic law of the Federal courts. It also contains the law governing the Department of Justice. Section 201 of title II establishes the bankruptcy court. The remainder of title II amends

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[19] *See* chapter 5, *infra*.

[20] *See* chapter 4, *infra*.

title 28 to grant the bankruptcy courts jurisdiction and court staff, to govern appeals from the bankruptcy courts, to make the bankruptcy court system an integral part of the Federal judiciary and to make conforming amendments; to establish the United States trustee system, and make conforming amendments necessary because of the repeal of the Bankruptcy Act.

Title III of the bill contains amendments to other laws of the United States. Many of these amendments are technical and conforming in nature. Some, however, are to rationalize the status of liens in bankruptcy cases, to eliminate special priorities for various creditors, and to prevent discrimination against former bankrupts. All priorities will, under the bill, be contained in title 11 of the United States Code itself, instead of being scattered about through Federal law.

The transition provisions are found in title IV. These include a repeal of the Bankruptcy Act, rules for the governance of the bankruptcy system during a five year transition period to the new court system, and provision for a study during transition to determine the number of bankruptcy judges needed under the new system.

STRUCTURE OR PROPOSED TITLE 11

Proposed title 11 of the United States Code is divided into seven chapters: 1, 3, 5, 7, 9, 11, and 13. Chapter 1 (General Provisions), Chapter 3 (Case Administration), and Chapter 5 (Creditors, the Debtor and the Estate), apply generally to all cases under chapter 7 (Liquidation), chapter 11 (Reorganization), and chapter 13 (Adjustment of Debts-of an Individual with Regular Income).

Limited portions of chapters 1, 3, and 5 apply to cases to under chapter 9 (Adjustment of Debts of a Municipality).

Cases are filed under only one of the four operative chapters, 7, 9, 11, or 13, though the bill does provide for conversion of a case from one chapter to another. In addition, there are special subchapters in chapters 7 and 11 for certain kinds of debtors. Chapter 7 contains two subchapters to handle the unique problems of stockbrokers and commodity brokers. Chapter 11 contains one subchapter for railroad reorganizations. The remainder of those chapters, 7 and 11, apply in the special cases as well. The special subchapters provide supplementary rules and procedures.

Though this Report is divided between consumer debtors and business debtors, the bill itself makes no such distinction. The provisions of chapter 7, Liquidation, for example, apply equally to business and consumer cases. However, certain specific provisions, such as the discharge, apply only to individuals and not to partnerships or corporations. The distinction is based on the kind of entity, not,on whether the entity is a consumer or a business, because frequently, individual cases involve small sole proprietorships. These cases are really business cases, but the need of the sole proprietor are often the same as the needs of a typical consumer debtor.

Chapter 11, Reorganization, is primax-ily designed for businesses, but permits individuals to use the chapter. The procedures of chapter 11, however, are sufficiently burdensome that their use will only make sense in the business context, and

not in the consumer context. Chapter 13, Adjustment of Debts of an Individual with Regular Income, is limited exclusively to individuals, but permits small sole proprietorships to use the chapter. The bill places a debt ceiling on an individual seeking to use chapter 13.

Similarly, the provisions in the generally applicable chapters, 1, 3, ancl 5, are not divided along consumer/business lines. Specific provisions do have more frequent applicability in consumer or business cases, however, and others are limited only to use by individuals. The discussion in this report of certain provisions in connection with consumer cases or in connection with business cases is based on the primary applicability of those provisions.

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CHAPTER 9—ADJUSTMENT OF DEBTS OF A MUNICIPALITY

SUBCHAPTER I—GENERAL PROVISIONS

§ 901. Applicability of other sections of this title

Section 901 makes applicable appropriate provisions of other chapters of proposed title 11. The general rule set out in section 103(e) is that only the provisions of chapters 1 and 9 apply in a chapter 9 case. Section 901 is the exception, and specifies other provisions that do apply. They are as follows:

§ 301. Voluntary cases. Application of this section makes clear, as under current chapter IX, that a municipal case can be commenced only by the municipality itself. There are no involuntary chapter 9 cases.

§ 344. Self-incrimination; immunity. Application of this section is of no substantive effect for the administration of the case, but merely provides that the general rules in part V of title 18 govern immunity.

§ 347(b). Unclaimed property. This provision currently appears in section 96(d) of chapter IX.

§ 349. Effect of dismissal. This section governs the effect of a dismissal of a chapter 9 case. It provides in substance that rights that existed before the case that were disturbed by the commencement of the case are reinstated. This section does not concern grounds for dismissal, which are found in section 926.

§ 361. Adequate protection. Section 361 provides the general standard for the protection of secured creditors whose property is used in a case under title 11. Its importance lies in its application to sections 362 and 364.

§362. Automatic stay. The automatic stay provisions of the general portions of the title are incorporated into chapter 9. There is an, automatic stay provided in current Bankruptcy Act § 85(e). The thrust of section 362 is the same as that of section 85(e), but, of course, its application in chapter 9 is modernized and drafted to conform with the stay generally applicable under the bankruptcy code. An additional part of the automatic stay applicable only to municipal cases is included in section 922.

§§364(c), 364(d,), 364(e). Obtaining credit. This section governs the borrowing of money by a municipality in reorganization. It is narrower than

a comparable provision in current law, section 82(b)(2). The difference lies mainly in the removal under the bill of the authority of the court to supervise borrowing by the municipality in instances in which none of the special bankruptcy powers are involved. That is, if a municipality could borrow money outside of the bankruptcy court, then it should have the same authority in bankruptcy court, under the doctrine of *Ashton* v. *Cameron Water District No. 1*, 298 U.S. 513 (1936) and *National League of Cities* v. *Usery*, 426 U.S. 833 (1976). Only when the municipality needs special authority, such as subordination of existing liens, or special priority for the borrowed funds, will the court become involved in the authorization.

§ 365. Executory contracts and unexpired leases. The applicability of section 365 incorporates the general power of a bankruptcy court to authorize the assumption or rejection of executory contracts or unexpired leases found in other chapters of the title. This section is comparable to section 82(b)(1) of current law.

§ 366. Utility service. This section gives a municipality the same authority as any other debtor with respect to continuation of utility service during the proceding, provided adequate assurance of future payment is provided. No comparable exjfficit provision is found in current law, although the case law seems to support the same result.

§ 501. Filing of proofs of claims. This section permits filing of proofs of claims in a chapter 9 case. Note, however, that section 924 permits listing of creditors' claims, as under chapter 11 and under section 85 (b) of chapter IX.

§ 502. Allowance of claims. This section applies the general allowance rules to chapter 9 cases. This is no change from current law.

§ 503. Administrative expenses. Administrative expenses as defined in section 503 will be paid in a chapter 9 case, as provided under section 89(1) of current law.

§ 504. Sharing of compensation. There is no comparable provision in current law. However, this provision applies generally throughout the proposed law, and will not affect the progress of the case, only the interrelations between attorneys and other professionals that participate in the case.

§ 506. Determination of secured status. Section 506 specifies that claims secured by a lien should be separated, to the extent provided, into secured and unsecured claims. It applies generally. Current law follows this result, though there is no explicit provision.

§ 507(1). Priorities. Paragraph (1) of section 507 requires that ad-ministrative expenses be paid first. This rule will apply in chapter 9 cases. It is presently found in section 89(1). The two other prioi'ities presently found in section 89 have been deleted. The second, for claims arising within 3 months before the case is commenced, is deleted from the statute, but may be within the court's equitable power to award, under the case of *Fosdick* v. *Schall*, 99 U.S. 235 (1878). Leaving the provision to the courts permits greater flexibility, as under railroad cases, than an absolute three-month rule. The third pi-iority under current law, for claims which are entitled to priority under the laws of the United States, is deleted because of the proposed

amendment to section 3466 of the Revised Statutes contained in section 321(a) of title III of the bill, which previously has given the United States an absolute first priority in Chapter X and section 77 cases. Because the priority rales are regularized and brought together in the bankruptcy laws by this bill, the need for incorporation of priorities elsewhere specified is eliminated.

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1125. Postpetition disclosure and solicitation. The change in the con-firmation standard necessitates a corresponding change in the disclosure requirements for solicitation of acceptances of a plan. Under current chapter IX, there is no disclosure requirement. Incorporation of section 1125 will insure that creditors receive adequate information before they are required to vote on a plan.

1126(a), (b), (c), (e), (f), (g). Acceptance of plan. Section 1126 incorporates the current chapter IX acceptance requirement: two-thirds in amount and a majority in number, Bankruptcy Act § 92. Section 1125 permits exclusion of certain acceptances from the computation if the acceptances were obtained in bad faith or, unlike current law, if there is a conflict of interest motivating the acceptance.

1127(d). Modification of plan. This section governs the change of a creditor's vote on the plan after a modification is proposed. It is derived from current section 92(e).

1128. Searing on confirmation. This section requires a hearing on the confirmation of the plan, and permits parties in interest to object. It is the

same as Bankruptcy Act §§ 93 and 94(a), though the provision, comparable to section 206 of current chapter X, permitting a labor organization to appear and be heard on the economic soundness of the plan, has been deleted as more appropriate for the Rules.

1129(a) (2), (3), (8), (b) (1), (2). Confirmation of plan. This section provides the boiler-plate language that the plan be proposed in good faith and that it comply with the provisions of the chapter, and also provides the financial standard for confirmation, which replaces the fair and equitable rule. *See 1124, supra.*

1142(b). Execution of plan. Derived from Bankruptcy Act § 96(b), this section permits the court to order execution and delivery of instruments in order to execute the plan.

1143. Distribution. This section is the same in substance as section 96(d), which requires presentment or delivery of securities within five years, and bars creditors that do not act within that time.

1144. Revocation of order of confirmation. This section permits the court to revoke the order of confirmation and the discharge if the confirmation of the plan was procured by fraud. There is no comparable provision in current chapter IX.

§ 902. Definitions

There are only four definitions for use only in chapter 9. The first specifies that when the term "property of the estate" is used in a section in another chapter made applicable in chapter 9 cases, the term will mean "property of the debtor".

Paragraphs (2) and (3) adopt the definition of "special taxpayer affected by the plan" that appears in current sections 81(10) and 81(11). Paragraphs (4) provides for "trustee" the same treatment as provided for "property of the estate", specifying that it means "debtor" when used in conjunction with chapter 9.

§ 903. Reservation of State power to control municipalities

Section 903 is derived, with stylistic changes, from section 83 of current chapter IX. It sets forth the primary authority of a State, through its constitution, laws, and other powers, over its municipalities. The proviso in section 83, prohibiting State composition procedures for municipalities, is deleted. In light of the recent Supreme Court case, *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), maximum flexibility for the States in solving the debt problems of their municipalities is advisable. In addition, a general policy of the bill is to encourage work-outs short of bankruptcy court. In view of the potential severe dislocation entailed in a Chapter 9 case, and the danger for too much federal court intervention in the affairs of a municipality, the deletion of the proviso recognizes the power of the States to assist municipal work-outs short of bankruptcy court.

§ 904 Limitation of jurisdiction and powers of court

This section adopts the policy of section 82(c) of current law. The *Usery* case underlines the need for this limitation on the court's powers. The only change in this section from section 82(c) is to conform the section to the style and cross-

references of H.R. 8200. This section makes clear that the court may not interfere with the choices a municipality makes as to what services and benefits it will provide to its inhabitants.

SUBCHAPTER H—ADMINISTRATION

§ 921. Petition and proceedings relating to petition

Subsection (a) is derived frorn section 85(a), second sentence, of current law. There is no substantive change in the law. The subsection permits a municipality that does not have its own officers to be moved into chapter 9 by the action of the body or board that has authority to levy taxes for the municipality.

Subsection (b) permits a party in interest to object to the filing of the petition not later than 15 days after notice. This provision tracks the third sentence of section 85(a), except that the provision for publication in section 85 (a) is left to the Rules (*See* Rule 9-14), and therefore the determinative date is left less definite.

Subsection (c) permits the court to dismiss a petition not filed in good faith or not filed in compliance with the requirements of the chapter. This provision is the fourth sentence of section 85(a).

Subsection (d) directs the court to order relief on the petition if it does not dismiss the case under subsection (c).

Subsection (e) contains the fifth and sixth sentences of section 85(a).

§ 922. Automatic stay of enforcement of claims against the debtor. The automatic stay provided

under section 362 of title 11 is incomplete for a municipality, because there is the possibility of action by a creditor against an officer or inhabitant of the municipality to collect taxes due the municipality. Section 85(e)(1) of current chapter IX stays such actions. Section 922 carries over that protection into the proposed chapter 9. Subsection (b) applies the provisions for relief from the stay that apply generally in section 362 to the stay under section 922.

§ 923. Notice

The notice provisions in section 923 are significantly more sparse than those provided under section 85(d) of chapter IX. The exact contours of the notice to be given under chapter 9 are left to the Rules.

* * *

95th CONGRESS
2d Session

SENATE

Report
No. 95-989

BANKRUPTCY REFORM ACT OF 1978

JULY 14 (legislative day, MAY 17), 1978 - Ordered to be printed

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Mr. DECONCINI, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2266]

The Committee on the Judiciary, to which was referred the bill, S. 2266, to establish a uniform law on the subject of bankruptcies, having considered the same, reports favorably thereon and recommends that the bill in the nature of a substitute do pass. The committee amendment strikes out all after the enacting clause and inserts a new text, which appears in italic type in the reported bill.

PURPOSE OF THE BILL

The purpose of the bill is to modernize the bankruptcy law by codifying a new title 11 that will embody the substantive law of bankruptcy and to make extensive amendments to title 28, Judiciary and Judicial Procedure, that will encompass the structure of the revised bankruptcy courts.

PURPOSE OF THE AMENDMENT

The amendment in the nature of a substitute reflects, testimony received by the committee and

the changes that resulted. The purpose of the revised bill remains to modernize the bankruptcy law.

INTRODUCTION

In 1970, Congress created the Commission on the Bankruptcy Laws of the United States to study and recommend changes in bankruptcy laws. The Commission became operational in June 1971, and filed its final report with Congress on July 30, 1973. Its report was in two parts. Part I contained the Commission's findings and recommendations.

* * *

CHAPTER 9—ADJUSTMENT OF DEBTS OF A MUNICIPALITY

Chapter 9, providing for the adjustment of debts of a municipality, was considered at great length by the Congress during 1975-76, primarily because of the New York City fiscal crisis. Both Houses of Congress held extensive hearings on the chapter resulting in Public Law 94-260, which was signed into law on April 8, 1976.

Since that time, there have been no developments in municipal arrangement proceedings to require any new revision of the law. Thus, the bill tracks the provisions of Public Law 94-260 with stylistic changes to conform to the title.

The creditor protection provision, requiring a municipality to attempt a good faith negotiation with its creditors before a petition is filed, is retained. The only deviation from current law is in the area of setoffs where the provisions of chapter 9 conform to the setoff provisions generally applicable to the title.

* * *

§ 109. Who may be a debtor

This section specifies eligibility to be a debtor under the bankruptcy laws. The first criterion, found in the current Bankruptcy Act section 2a(1) requires that the debtor reside or have a domicile, a place of business, or property in the United States.

Subsection (b) defines eligibility for liquidation under chapter 7. All persons are eligible except insurance companies, and certain baking institutions. These exclusions are contained in current law. However, the banking institution exception is expanded in light of changes in various banking laws since the current law was last amended on this point. A change is also made to clarify that the bankruptcy laws cover foreign banks and insurance companies not engaged in the banking or insurance business in the United States but having assets in the United States. Banking institutions and insurance companies engaged in business in this country are excluded from liquidation under the bankruptcy laws because they are bodies for which alternate provision is made for their liquidation under various State or Federal regulatory laws. Conversely, when a foreign bank or insurance company is not engaged in the banking or insurance business in the United States, then those regulatory laws do not apply, and the bankruptcy laws are the only ones available for administration of any assets found in United States.

The first clause of subsection (b) provides that a railroad is not a debtor except where the requirements of section 1174 are met.

Subsection (c) provides that only a person who may be a debtor under chapter 7 and a railroad may also be a debtor under chapter 11, but a stockbroker or commodity broker is eligible for relief only under chapter 7. Subsection (d) establishes dollar limitations on the amount of indebtedness that an individual with regular income can incur and yet file under chapter 13.

CHAPTER 3—CASE ADMINISTRATION

SUBCHAPTER I—COMMENCEMENT OF A CASE

§ 301. Voluntary cases

Section 301 specifies the manner in which a voluntary bankruptcy case is commenced. The debtor files a petition under this section under the particular operative chapter of the bankruptcy code under which he wishes to proceed. The filing of the petition constitutes an order for relief in the case under that chapter. The section contains no change from current law, except for the use of the phrase "order for relief" instead of "adjudication." The term adjudication is replaced by a less pejorative phrase in light of the clear power of Congress to permit voluntary bankruptcy without the necessity for an adjudication, as under the 1898 act, which was adopted when voluntary bankruptcy was a concept not thoroughly tested.

* * *

Section 903. Reservation of State power to control municipalities

Section 903 is derived, with stylistic changes, from section 83 of current Chapter IX. It sets forth the primary authority of a State, through its

constitution, laws, and other powers, over its municipalities. The proviso in section 83, prohibiting State composition procedures for municipalities, is retained. Deletion of the provision would "permit all States to enact their own versions of Chapter IX," *Municipal Insolvency,* 50 Am. Bankr. L.J. 55, 65, which would frustrate the constitutional mandate of uniform bankruptcy laws. *Constitution of the United States.* Art. I, Sec. 8.

This section provides that the municipality can consent to the court's orders in regard to use of its income or property. It is contemplated that such consent will be required by the court for the issuance of certificates of indebtedness under section 364(c). Such consent could extend to enforcement of the conditions attached to the certificates or the municipal services to be provided during the proceedings.

Section 904. Limitations of jurisdiction and powers of court

This section adopts the policy of section 82(c) of current law. The only change in this section from section 82(c) is to conform the section to the style and cross-references of S.2266.

Section 905. Designation of judge

Section 905 adopts the procedures for selection of the judge for the chapter 9 case as found in current section 82(d). It is expected that the large chapter 9 case might take up almost all the judicial time of the presiding judge and involve very complex legal questions. Selection should not be left to chance or the luck of the draw. This

provision will insure that calendar demands and levels of experience can be considered in the selection of the judge in a Chapter 9 case.

Section 906. Eligibility for relief

Section 906 adopts the current law of section 84 of the Bankruptcy Act. It requires general authorization by the State legislature, or by a governmental officer (which includes the chief executive) or governmental organization (such as a municipal finance commission), empowered by State law to authorize filing.

Absent such a requirement for affirmative action by the state, a serious constitutional question would be raised in connection with the 10th amendment.

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UNITED STATES OF AMERICA

CONGRESSIONAL RECORD

PROCEEDINGS AND DEBATES OF THE
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* * *

Chapter 9 of the House amendment represents a compromise between chapter 9 of the House bill and 9 of the Senate amendment. In most respect this chapter follows current law with respect to the adjustment of debts of a municipality. Stylistic changes and minor substantive revisions have been made in order to conform this chapter with other new chapters of the bankruptcy code. There are few major differences between the House bill and the Senate amendment on this issue. Section 901

indicates the applicability of other sections of title II in cases under chapter 9. Included are sections providing for creditors' committees under sections 1102 and 1103.

Section 902(2) of the Senate amendment is deleted since the bankruptcy court will have jurisdiction over all cases under chapter 9. The concept of a claim being materially and adversely affected reflected in section 902(1) of the Senate amendment has been deleted and replaced with the new concept of "impairment" set forth in section 1124 of the House amendment and incorporated by reference into chapter 9.

Section 903 of the House amendment represents a stylistic revision of section 903 of the Senate amendment. To the extent section 903 of the House bill would have changed present law, such section is rejected. Section 905 of the Senate amendment is incorporated as section 921(b) of the House amendment with the difference that the chief judge of the circuit embracing the district in which the case is commenced designates a bankruptcy judge to conduct the case in lieu of a district judge as under present law. It is inteded that a municipality may commence a case in any district in which the municipality is located, as under present law. Section 906 of the Senate amendment has been adopted in substance in section 109(c) of the House amendment.

Section 923 of the House amendment represents a compromise with respect to the notice provisions contained in comparable provisions of the House bill and Senate amendment. As a general matter, title II leaves most procedural issues to be

determined by the Rules of Bankruptcy Procedure. Section 923 of the House amendment contains certain important aspects of procedure that have been retained from present law. It is anticipated that the Rules of Bankruptcy Procedure will adopt rules similar to the present rules for chapter IX of the Bankruptcy Act.

Section 924 of the House amendment is derived from section 924 of the House bill with the location of the filing of the list of creditors to be determined by the rules of bankruptcy procedure. The detailed requirements of section 724 of the Senate bill are anticipated to be incorporated in the rules of bankruptcy procedure.

Section 925 of the Senate amendment regarding venue and fees has been deleted.

Section 926 of the House amendment is derived from section 928 of the Senate bill. The provision enables creditors to request the court to appoint a trustee to pursue avoiding powers if the debtor refuses to exercise those powers. Section 901 of the House amendment makes a corresponding change to incorporate avoiding powers including in the Sentate amendment, but excluded from the House bill.

Section 927(b) of the House amendment is derived from section 927(b) of the Senate bill. The provision requires mandatory dismissal if confirmation of a plan is refused.

The House amendment deletes section 929 of the Senate amendment as unnecessary since the bankruptcy court has original exclusive jurisdiction of all cases under chapter 9.

The House amendment deletes section 930 of the Senate amendment and incorporates section 507(a)(1) by reference.

The House amendment deletes section 942 of the Senate amendment in favor of incorporating section 1125 by cross-reference. Similarly, the House amendment does not incorporate sections 944 or 945 of the Senate amendment since incorporation of several sections in chapter 11 in section 901 is sufficient.

Section 943(a) of the House amendment makes clear that a special taxpayer may object to confirmation of a plan. Section 943(b) of the House amendment is derived from section 943 of the House bill respecting confirmation of a plan under chapter 9. It must be emphasized that these standards of confirmation are in addition to standards in section 1129 that are made applicable to chapter 9 by section 901 of the House amendment. In particular, if the requirements of section 1129(a)(8) are not complied with, then the proponent may request application of section 1129(b). The court will then be required to confirm the plan if it complies with the "fair and equitable" test and is in the best interests of creditors. The best interests of creditors test does not mean liquidation value as under chapter XI of the Bankruptcy Act. In making such a determination, it is expected that the court will be guided by standards set forth in *Kelley v. Everglades Drainage District, 319* U.S. 415 (1943), and *Fano v. Newport Heights Irrigation Dist.,* 114 F.2d 563 (9th Cir. 1940), as under present law, the bankruptcy court should make findings as detailed as possible

to support a conclusion that this test has been met. However, it must be emphasized that unlike current law, the fair and equitable test under section 1129(b) will not apply if section 1129(a)(8) has been satisfied in addition to the other confirmation standards specified in section 943 and incorporated by reference in section 901 of the House amendment. To the extent that *American United Mutual Life Insurance Co. v. City of Avon Park*, 311 U.S. 138 (1940) and other cases are to the contrary, such cases are overruled to that extent.

The House amendment deletes section 950 of the Senate amendment as unnecessary. The constitutionality of chapter 9 of the House amendment is beyond doubt.

Chapter 11 of the House amendment is derived in large part from chapter 11 as contained in the House bill. Unlike chapter 11 of the Senate amendment, chapter 11 of the House amendment does not represent an extension of chapter X of current law or any other chapter of the Bankruptcy Act. Rather chapter 11 of the House amendment takes a new approach consolidating subjects dealt with under chapter VIII, X, XI, and XII of the Bankruptcy Act. The new consolidated chapter 11 contains no special procedure for companies with public debt or equity security holders. Instead, factors such as the standard to be applied to solicitation of acceptances of a plan of reorganization are left to be determined by the court on a case-by-case basis. In order to insure that adequate investigation of the debtor is conducted to determine fraud or wrongdoing on the

part of present management, an examiner is required to be appointed in all cases in which the debtor's fixed, liquidated, and unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed $5 million. This should adequately represent the needs of public security holders in most cases. However, in addition, section 1109 of the House amendment enables both the Securities and Exchange Commission and any party in interest who is creditor, equity security holder, indenture trustee, or any committee representing creditors, or equity security holders to raise and appear and be heard on any issue in a case under chapter 11. This will enable the bankruptcy court to evaluate all sides of a position and to determine the public interest. This approach is sharply contrasted to that under chapter X of present law in which the public interest is often determined only in terms of the interest of public security holders. The advisory role of the Securities and Exchange Commission will enable the court to balance the needs of public security holders against equally important public needs relating to the economy, such as employment and production, and other factors such as the public health and safety of the people or protection of the national interest. In this context, the new chapter 11 deletes archaic rules contained in certain chapters of present law such as the requirement of an approval hearing and the prohibition of prepetition solicitation. Such requirements were written in an age before the enactment of the Trust Indenture Act and the development of securities laws had occurred. The benefits of these provisions have long been outlived but the detriment of the

provisions served to frustrate and delay effective reorganization in those chapters of the Bankruptcy Act in which such provisions applied. Chapter 11 thus represents a much needed revision of reorganization laws. A brief discussion of the history of this important achievement is useful to an appreciation of the monumental reform embraced in chapter 11.

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October 5, 1978 CONGRESSIONAL RECORD — SENATE 34002

Section 766(a) of the House amendment is derived from section 768(c) of the House bill and section 767(f) of the Senate amendment. Section 766(b) of the House amendment is derived from section 765(d) of the House bill, and section 767(g) of the Senate amendment. Section 766(c) of the House amendment is derived from section 768(a) of the House bill and section 767(e) of the Senate amendment. Section 766(d) of the House amendment is derived from section 768(b) of the House bill and the second sentence of section 767(e) of the Senate amendment.

Section 766(e) of the House amendment is derived from section 765(c) of the House bill and sections 767 (c) and (d) of the Senate amendment. The provision clarifies that the trustee may liquidate a commodity contract only if the commodity contract cannot be transferred to a commodity broker under section 766(c), cannot be identified to a particular customer, or has been identified with respect to a particular customer, but

with respect to which the customer's instructions have not been received.

Section 766(f) of the House amendment is derived from section 766(b) of the House bill and section 767(h) of the Senate amendment. The reference to "securities and other property" is not intended to include a commodity contract. Section 766(g) of the House amendment is derived from section 766(a) of the House bill. Section 766(n) of the House amendment is derived from section 767(a) of the House bill and section 765(a) of the Senate amendment. In order to induce private trustees to undertake the difficult and risky job of liquidating a commodity broker, the House amendment contains a provision insuring that a pro rata share of administrative claims will be paid. The provision represents a compromise between the position taken in the House bill, subordinating customer property to all expenses of administration, and the position taken in the Senate amendment requiring the distribution of customer property in advance of any expenses of administration. The position in the Senate amendment is rejected since customers, in any event, would have to pay a brokerage commission or fee in the ordinary course of business. The compromise provision requires customers to pay only those administrative expenses that are attributable to the administration of customer property.

Section 766(i) of the House amendment is derived from section 767(b) of the House bill and contains a similar compromise with respect to expenses of administration as the compromise

detailed in connection with section 766(h) of the House amendment. Section 766(j) of the House amendment is derived from section 767(c) of the House bill. No counterpart is contained in the Senate amendment. The provision takes account of the rare case where the estate has customer property in excess of customer claims and administrative expenses attributable to those claims. The section also specifies that to the extent a customer is not paid in full out of customer property, that the unpaid claim will be treated the same as any other general unsecured creditor.

Section 768 of the Senate amendment was deleted from the House amendment as unwise. The provision in the Senate amendment would have permitted the trustee to distribute customer property based upon an estimate of value of the customer's account, with no provision for recapture of excessive disbursements. Moreover, the section would have exonerated the trustee from any liability for such an excessive disbursement. Furthermore, the section is unclear with respect to the customer's rights in the event the trustee makes a distribution less than the share to which the customer is entitled. The provision is deleted in the House amendment so that this difficult problem may be handled on a case-by-case basis by the courts as the facts and circumstances of each case require.

Section 769 of the Senate amendment is deleted in the House amendment as unnecessary. The provision was intended to codify *Board of Trade v. Johnson*, 264 U.S. 1 (1924). Board of Trade against Johnson is codified in section 363(f) of the House

amendment which indicates the only five circumstances in which property may be sold free and clear of an interest in such property of an entity other than the estate.

Section 770 of the Senate amendment is deleted in the House amendment as unnecessary. That section would have permitted commodity brokers to liquidate commodity contracts, notwithstanding any contrary order of the court. It would require an extraordinary circumstance, such as a threat to the national security, to enjoin a commodity broker from liquidating a commodity contract. However, in those circumstances, an injunction must prevail. Failure of the House amendment to incorporate section 770 of the Senate amendment does not imply that the automatic stay prevents liquidation of commodity contracts by commodity brokers. To the contrary, whenever by contract, or otherwise, a commodity broker is entitled to liquidate a position as a result of a condition specified in a contract, other than a condition or default of the kind specified in section 365(b)(2) of title II, the commodity broker may engage in such liquidation. To this extent, the commodity broker's contract with his customer is treated no differently than any other contract under section 365 of title II.

Chapter 9 of the House amendment represents a compromise between chapter 9 of the House bill and 9 of the Senate amendment. In most respect this chapter follows current law with respect to the adjustment of debts of a municipality. Stylistic changes and minor substantive revisions have been made in order to conform this chapter with other new chapters of the bankruptcy code. There are

few major differences between the House bill and the Senate amendment on this issue. Section 901 indicates the applicability of other sections of title II in cases under chapter 9. Included are sections providing for creditors' committees under sections 1102 and 1103.

Section 902(2) of the Senate amendment is deleted since the bankruptcy court will have jurisdiction over all cases under chapter 9. The concept of a claim being materially and adversely affected reflected in section 902(1) of the Senate amendment has been deleted and replaced with the new concept of "impairment" set forth in section 1124 of the House amendment and incorporated by reference into chapter 9.

Section 903 of the House amendment represents a stylistic revision of section 903 of the Senate amendment. To the extent section 903 of the House bill would have changed present law, such section is rejected. Section 905 of the Senate amendment is incorporated as section 921(b) of the House amendment with the difference that the chief judge of the circuit embracing the district in which the case is commenced designates a bankruptcy judge to conduct the case in lieu of a district judge as under present law. It is intended that a municipality may commence a case in any district in which the municipality is located, as under present law. Section 906 of the Senate amendment has been adopted in substance in section 109(c) of the House amendment.

Section 923 of the House amendment represents a compromise with respect to the notice provisions contained in comparable provisions of the House

bill and Senate amendment. As a general matter, title II leaves most procedural issues to be determined by the Rules of Bankruptcy Procedure. Section 923 of the House amendment contains certain important aspects of procedure that have been retained from present law. It is anticipated that the Rules of Bankruptcy Procedure will adopt rules similar to the present rules for chapter IX of the Bankruptcy Act.

Section 924 of the House amendment is derived from section 924 of the House bill with the location of the filing of the list of creditors to be determined by the rules of bankruptcy procedure. The detailed requirements of section 724 of the Senate bill are anticipated to be incorporated in the rules of bankruptcy procedure.

Section 925 of the Senate amendment regarding venue and fees has been deleted.

* * *

96th Congress SENATE Report
1st Session No. 96-305

TECHNICAL AMENDMENTS TO BANKRUPTCY REFORM ACT OF 1978

August 3 (legislative day June 21), 1979 –

Ordered to be printed

Mr. DECONCINI, from the Committee on the Judiciary, submitted the following

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REPORT

[To Accompany S. 658]

The Committee on the Judiciary, to which was referred the bill S. 658, to correct technical errors, clarify, and make minor substantive changes to Public Law 95-598, the Bankruptcy Reform Act of 1978, having considered the same, reports favorably thereon and recommends that the bill as amended do pass.

PURPOSE OF THE AMENDMENT

The amendment is an amendment in the nature of a substitute and its purpose is identical to that of the bill as introduced: to correct technical errors, clarify and make minor substantive changes to Public Law 95-598.

PURPOSE OF THE BILL

The purpose of the bill is to correct technical errors, clarify and make minor substantive changes in Public Law 95-598, the Bankruptcy Reform Act of 1978, which will be effective on October 1, 1979.

INTRODUCTION

On July 12, 1978, the Committee on the Judiciary reported S. 2266, the Senate version of The Bankruptcy Reform Act of 1978. On September 7, 1978, the Senate took from the desk H.R. 8200, the House version of The Bankruptcy Reform Act of 1978, struck the text of the bill and inserted in its place the text of S. 2266 and passed the bill as amended. On September 20, 1978, H.R. 8200, with further amend merits was passed again by the House. On October 5,1978, the Senate repassed H.R. 8200, with additional amendments. Finally, on October 6, 1978, the House accepted the final Senate changes and cleared the bill for signature by the President. On November 6, 1978, President Carter signed the bill and it became Public Law 95-598, Judges, scholars and bankruptcy practitioners have reviewed its provisions and numerous technical amendments and minor substantive changes to make clear the intent of Congress have been suggested to the Committee. On March 14, 1979, Senator DeConcini introduced S. 658 which embodied many of those recommendations. Subsequent to introduction, further suggestions and comments were received resulting in additions to and revision of S. 658, culminating in the present version of the bill reported from the subcommittee as an amendment in the nature of a substitute.

SECTION-BY-SECTION ANALYSIS—TITLE I

The amendments contained in Title I make amendments to Title I of The Bankruptcy Reform Act of 1978, Public Law 95-598 ("the Reform Act"). In this title all section references within the section and subsection descriptions of the amendments will be to Title I of the Reform Act unless otherwise indicated.

Section 101. This section deletes a redundancy. "Substantially all the property of the debtor" includes all of the property of the debtor and "all" can be deleted as redundant.

Section 102(a). This amendment corrects a typographical error.

Subsection (b). This amendment cross-references one additional section to complete the intent that claims fixed after the filing of the petition are to be treated as pre-petition claims, and deleted the reference to § 502(i), which is repealed by S. 122 of the bill.

Subsection (c). This amendment corrects a typographical error in definition of "entity".

Subsection (d). This amendment corrects a typographical error in the definition of "individual with regular income".

Subsection (e). This amendment to the definition of "insolvent" with respect to a partnership, clarifies that "separate" as used in the definition refers to the general partners' non-partnership property, and removes the ambiquity that it might refer to his noncommunity property in a community property estate.

Subsection (f). This amendment to the definition of "security" makes a stylistic change.

Subsection (g). This amendment amends the definition of "state" to include the Commonwealth of Puerto Rico, the Panama Canal Zone, the District of Columbia, and any territory or possession of the United States. These government units were inadvertently left out of the definition of "state" during the passage of the Reform Act.

Subsection (h). This amendment adds a definition of "securities clearing agency."

Section 108(a). This amendment accommodates the addition of the rule of construction for "United States" in subsection (d) of this of this section.

Subsection (b). This amendment makes a typographical correction.

Subsection (c). This amendment accomodates the addition of the rule of construction for "United States" in subsection (d) of this section.

Subsection (d). This amendment adds a rule of construction for the term "United States" when used in a geographical sense. The effect of this addition together with the amendment in section 102(b) of the bill is to clarify that the Reform Act applies to those who reside, have a domicile, or have property in the Commonwealth of Puerto Rico, the District of Columbia or the territories or possessions of the United States. Absent the amendments made by this subsection and section 102(b) of the bill, the Reform Act could be construed as not applying to those areas and debtors residing there could not seek relief in the bankruptcy courts.

Section 104(a). This amendment corrects a typographical error and makes a cross-reference for the new section added by section 159 of the bill.

Subsection (b). The exception contained in Section 103(d) is deleted because the reference to section 764(c) is no longer necessary since section 764(c) is deleted by section 156 of this bill. A reference is inserted to section 767, which is added by section 164 of this bill.

Section 105(a). This amendment makes clear that all otherwise applicable statutes of limitations are tolled by the filing of the bankruptcy petition.

Subsection (b). This amendment adds a new section to give taxing authorities a ninety (90) days period to act after the suspension of action created by the filing of the bankruptcy petition has expired, rather than the thirty (30) days that would otherwise be permitted.

Subsection (c). This amendment extends the statute of limitations for certain tax proceedings to sixty (60) days after the automatic stay is lifted, instead of the thirty (30) days that would otherwise be applicable.

Section 106(a). This amendment makes a stylistic change. Subsection (b). This amendment corrects a typographical error. Section 107(a). This amendment is a stylistic change.

Subsection (b). This amendment corrects a typographical error. Section 108. This amendment makes a stylistic change that clarifies section 321(b).

Section 109(a). This amendment makes a stylistic change. Subsection (b). This section makes

a stylistic amendment to conform section 326(d) to section 102(5).

Section 110(a). This amendment strikes "United States trustee" in section 330(a). All provisions relating to United States Trustee were intended to be collected together in the separate Chapter 15. In that process this reference was overlooked, making the deletion a necessary but stylistic change.

Subsection (b). This amendment makes clear that the value of professional services rendered in connection with the bankruptcy ease and allowable as an administrative expense is to be based on value of the services to the debtor or the estate and not on the value of the services to any other party or non-party. It is not intended to limit the concept that in determining such value the court should consider the cost of comparable services other than a bankruptcy case.

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96th CONGRESS *2nd Session* | HOUSE OF REPRESENTATIVES | REPORT No. 96-1195

AN ACT TO CORRECT TECHNICAL ERRORS, CLARIFY AND MAKE MINOR SUBSTANTIVE CHANGES TO PUBLIC LAW 95-598

JULY 25, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. RODINO, from the Committee on the Judiciary, submitted the following

REPORT

together with DISSENTING VIEWS

[To accompany S. 658]

The Committee on the Judiciary, to whom was referred the bill (S. 658) to correct technical errors, clarify and make minor substantive changes to Public Law 95-598, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment to the text of the bill is a complete substitute therefor and appears in italic type in the reported bill.

INTRODUCTION

The Bankrupty Reform Act of 1978 has now been in effect less than one year. It is clear even at this early time in the life of this law that technical

amendments are required. Errors in printing, spelling, punctuation, grammar, syntax, and numeration arose in the bill as enacted because of the last-minute process of change through which the bill went when considered at the closing sessions of the 95th Congress.

These same last-minute changes also resulted in the enactment of a bill that contains incongruent provisions; material that was removed from earlier versions remained as either cross-references or antecedents for provisions changed or inserted. And, material added often was not completely integrated into the total fabric of the bill as enacted.

* * *

With the consideration of the Technical Amendments Act, this tax legislation has not yet been fully considered and the provisions of section 346, therefore, exist in a vacuum.

These section 346 provisions are being removed with the intention that (1) there should be a uniform treatment of tax consequences in bankruptcy under both State and federal law, (2) federal tax legislation should be considered at the earliest possible time, and (3) until such legislation is enacted it is most desirable that tax consequences of bankruptcy should be dealt with as they were under the former Bankruptcy Act.

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 1(a). This amendment deletes a redundancy.

Subsection (b). This amendment corrects a typographical error.

Subsection (c). This amendment corrects the cross-references identifying the types of claims to be treated as pre-petition claims to include certain preconversion and co-debtor claims.

Subsection (d). This amendment corrects an omission by providing the connective to assure that "entity" is defined to include all of the types specified.

Subsection (e). This amendment corrects a typographical error.

Subsection (f). This amendment to the definition of "insolvent" with reference to a partnership clarifies that it is the general partner nonpartnership property that is the subject of valuation eliminating the ambiguity presented by the use of the term "separate" which allowed for the reference to noncommunity property in a community property stae; substitutes the indefinite article with reference to the types of property excluded from the valuation; and adds a cross-reference to include all property appropriately to be excluded from the valuation.

Subsection (g). This amendment redesignates paragraphs (35), (36), (37), (38), (39), and (40) to allow for the addition of two new definitions; and adds as one of the new paragraphs a definition for "securities clearing agency" to facilitate the treatment of stockbroker bankruptcies under subchapter III of chapter 7.

Subsection (h). This amendment clarifies that the term "security" is applicable to the designated contract or interest if such is required to be the

subject of a Securities Act registration statement whether or not it is so subject.

Subsection (i). This amendment corrects the name of a type of contract excluded from the definition of "security".

Subsection (j). This amendment makes a stylistic change in the cross-reference; and clarifies that the contract or certificate excluded from the definition of "security" is not required to be the subject of a Securities Act registration statement whether or not it is so subject.

Subsection (k). This amendment adds a new paragraph which provides a definition for "State" primarily to assure that residents and domiciliaries of Puerto Rico can become debtors under title 11.

Subsection (l). This amendment makes a stylistic change.

Subsection (m). This amendment makes a change in punctuation to allow an additional paragraph to be added.

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533

BANKRUPTCY IMPROVEMENTS ACT

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS
FIRST SESSION

ON

S. 333

A BILL TO AMEND TITLE 11 OF THE UNITED STATES CODE TO MAKE CERTAIN CHANGES IN THE PERSONAL BANKRUPTCY LAW, AND FOR OTHER PURPOSES

AND

S.445

A BILL TO AMEND TITLE II, UNITED STATES CODE, AND FOR OTHER PURPOSES

APRIL 6, 1983

Serial No. J-98-26

S. 333—CONSUMER BANKRUPTCY IMPROVEMENTS ACT OF 1983

S. 445—OMNIBUS BANKRUPTCY IMPROVEMENTS ACT OF 1983

WEDNESDAY, APRIL 6, 1983

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room SD-226, Dirksen Senate Office Building, the Honorable Strom Thurmond (chairman of the committee) presiding.

Present: Senators Metzenbaum, Denton, and Biden.

Staff present: Sheila Bair, counsel, Courts Subcommittee; Betsy Greenwood, counsel, Immigration Subcommittee; Doug Comer, chief counsel, Courts Subcommittee; Sally Rogers, senior counsel, full committee; Mary Louise Westmoreland, counsel, Juvenile Justice Subcommittee; Bob Feidler, minority counsel, Constitution Subcommittee; March Bell, counsel, Security and Terrorism Subcommittee; Kevin Manson, counsel, Courts Subcommittee; Eric Stelter, Criminal Law staff assistant; Chip Reid, minority counsel, full committee; Mike Epstein, minority counsel, Senator Byrd's staff; Carolyn P. Osolinik, Senator Kennedy's staff; Arthur Briskman, minority chief counsel, Senator Heflin's staff; Marge Baker, minority chief counsel, Senator Metzenbaum's staff; and Marilyn Falksen,

professional staff member, Senator Metzenbaum's staff.

OPENING STATEMENT OF CHAIRMAN STROM THURMOND

The CHAIRMAN. The committee will come to order.

Today the Committee on the Judiciary is holding an additional hearing on the important substantive bankruptcy law issues addressed in S. 445, the Omnibus Bankruptcy Improvements Act of 1983, and S. 333, the Consumer Bankruptcy Improvements Act of 1983.

While the committee has held several days of hearings on these issues starting in the last Congress, I was pleased to accommodate the request of the Senator from Ohio, Senator Metzenbaum, for a further day of hearings. I would like to thank my friend and distinguished colleague, Senator Grassley, for agreeing to chair this hearing for the full committee as I will have to leave in a few minutes.

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COMMENTS ON SUBTITLE I OF S.445 TECHNICAL AMENDMENTS TO TITLE

Frank R. Kennedy

I have had the opportunity to see Professor Vern Countryman's letter of March 28, 1983, commenting on the Technical Amendments part of S.445, which has been submitted to this Committee, and a letter of Richard Levin of the firm of Stutman, Treister & Glatt, dated March 31, 1983, addressed to the office of Senator Metzenbaum, and enclosing comments on technical amendments included in bills introduced in the 97th Congress. I concur in large part with these

comments, but the statement I submit and the comments I make today are my own and are restricted for the most part to what appear to me not to be technical amendments.

Professor Countryman, Mr. Levin, and I are all members of the National Bankruptcy Conference, but the Conference has not taken positiions on. these amendments. I speak as one who has been engaged principally in studying, teaching, and writing about the subject of bankruptcy since 1940. During the first two decades of that period I was a member of the law faculty of the University of Iowa and since 1961 I have been teaching at the University of Michigan Law School.

I am in agreement with Professor Countryman's and Mr. Levin's general objections to technical amendments that are not technical but propose substantive and significant changes in the law. Inclusion of such amendments in a part of an omnibus bill purporting to be a collection of technical amendments runs the serious risk of facilitating enactment, after only cursory examination, of changes of provisions that were thoroughly examined and drafted and passed after prolonged and careful consideration in the course of the formulation and enactment of Public Law No. 95-598. Repeal or modification of any provision of the Bankruptcy Reform Act that is not a technical amendment should receive at least as much attention as was given the provision during the course of the formulation of that Act.

My purpose this morning is to call to your attention numerous instances of inappropriate and premature proposals advanced under Subtitle I in

the guise of technical, noncontroversial changes of a law that included many controversial provisions. The controversies were thoroughly ventilated and resolved in a context and setting where the implications and the interrelations of specific alternatives with the entire bankruptcy law could be assessed. There is substantial danger that any proposal in the technical amendments package that goes beyond formal, nonsubstantive changes will have unexpected and unintended impacts. Experience under the Bankruptcy Reform Act has demonstrated that, even though it was not and could not have been anticipated chat the law would be required to govern so many bankruptcies and reorganizations as have been precipitated by economic conditions since 1978, the law has worked extremely well. I concur in Mr. Levin's observation that the experience does not yet warrant most of the changes that have been proposed under the label "technical."

Notwithstanding the foregoing, I must acknowledge that some of the amendments in Subpart I are substantive but probably, or at least arguably, ncrcontroversial and generally acknowledged to be desirable. There is a risk in assuming that a technical amendment is noncontroversial; the categorization is likely to discourage publicity and close scrutiny of the proposal. Nonetheless, I have not expressed objections to some of the technical amendments because they seem entirely unobjectionable and desirable.

S:445 - Subtitle I

P.45, lines 22-24: § 311, amending § 101(26)(B)(ii).

This amendment is garbled in the version I have. It purports to strike language from § 101(26)(B)(ii) that is not in this provision. Professor Countryman objects to the "or" In line 24. I probably do too, because I don't see any justification for substitution of "or" for "and" in the definition of partnership insolvency in § 101(26)(B).

P.47. lines 1-3: § 311(j), amending § 101.

I do not understand why the municipal corporations of Puerto Rico are denied by the proposed definition of "State" of the right to seek relief under Chapter 9, but the addition of the definition of "State" is useful.

P.48, lines 1-20: § 313-1, amending § 106.

Professor Countryman correctly points out that the amendment of § 106(a) cuts back on the waiver of sovereign imnunity when a government claim is filed pursuant to § 501(b) or (c). The proposed amendment of § 106(c), by precluding a judgment for money against a governmental unit, overrules such cases as the following: *In re* Aurora Cord & Cable Co., Inc., 1 C.B.C.2d 486 (Bankr. Ct. N.D. ILL. 1980) (I.R.S. ordered to turn over $20,000 obtained by levy on cash and accounts receivable two days before Chapter 11 petition was filed); *In re* Norton, 15 W.B.R. 623, CCH B.L.R. ¶ 68,456 (Bankr.Ct. E.D.Pa. 1982) (IRS fined for withholding tax refund); Mealey v. Department of Treasury (*In re* Mealey), 16 W.B.R. 800, 802 (Bankr.Ct. E.D.Pa. 1982) (IRS fined $200 and required to pay attorney's fees of $250, to reimburse debtor for fee charged for filing complaint, and to refund $613.96 to debtors that had been

wrongfully withheld); *cf.* GNMA v. Adana Mtge.Bankers, Inc. (*In re* Adana Mtge.Bankers, Inc.), 7 B.C.D. 1098, CCH B.L.R. ¶ 68,237 (Bankr. Ct. N.D.Ga. 1981) (GNMA directed to pay legal expenses Incurred by debtor and creditor in contempt proceedings).

P.50, lines 21-25 and

P.51, lines 1-6: § 315(e), amending § 109.

This amendment adds an unnecessary provision, as Professor Countryman has suggested at p. 2 of his letter. The proposed provision cannot operate automatically–i.e., without action by the court dismissing the case. The court already has ample powers to dismiss or abstain under §§ 305, 707, 1112, and 1307. In addition, the courts have frequently recognized an inherent power to dismiss a case filed by a petitioner attempting to abuse the rights and privileges provided by the Code. It is better for the courts to deal with the kinds of situations proscribed by the statute under existing statutory authority than to Impose a flat proscription as the proposed amendment does.

P.51, lines 19-25 and

P.52, lines 1-8: § 320(a), amending § 326(a).

As Professor Countryman has noted, it is surprising to end a recommendation for the abolition of any ceiling on a Chapter 11 trustee's compensation in a "technical amendment." Moreover, it may be wondered why the amendment takes no account of the numerous reports that it is difficult in many areas to find trustees for small asset Chapter 7 cases or to get effective action from those who accept

appointment because of the low compensation allowable for such cases.

P.52, lines 17-22: § 321(d), amending § 327(c).

This amendment, in removing the statutory restriction against employment by a trustee of an attorney who is at the same time representing a creditor in the case, repudiates a deliberate policy determination made by Congress in enacting the Bankruptcy Reform Act to prohibit such possibilities for conflict of Interest in bankruptcy administration. Counsel for creditors have of course objected to this restriction, but they can hardly argue that a merely technical amendment is involved.

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THE
STATUTES AT LARGE
OF THE
UNITED STATES OF AMERICA,
FROM
MARCH, 1897 TO MARCH, 1899,
AND
RECENT TREATIES, CONVENTIONS, EXECUTIVE PROCLAMATIONS,
AND
THE CONCURRENT RESOLUTIONS OF THE TWO HOUSES OF CONGRESS

EDITED, PRINTED, AND PUBLISHED BY AUTHORITY OF CONGRESS, UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOL. XXX

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* * *

CHAP. 541. An Act To establish, a uniform system of bankruptcy throughout the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHAPTER I.

DEFINITIONS.

SECTION 1. MEANING OF WORDS AND PHRASES. The words and phrases used in this Act and in proceedings, pursuant hereto shall, unless the same be inconsistent with the context, be construed as folslows: (1) "A person against whom a petition has been filed" shall include a person who has filed a voluntary petition; (2) "adjudication" shall mean the date of the entry of a decree that the defendant, in a bankruptcy proceeding, is a bankrupt, or if such decree is appealed from, then the date when such decree is finally confirmed; (3) "appellate courts" shall include the circuit courts of appeals of the United States, the supreme courts of the Territories, and the Supreme Court of the United States; (4) "bankrupt" shall include a person against whom an involuntary petition or an application to set a composition aside or to revoke a discharge has been filed, or who has filed a voluntary petition, or who has been adjudged a bankrupt; (5) "clerk" shall mean the clerk of a court of bankruptcy; (6) "corporations" shall mean all bodies having any of the powers and privileges of private corporations not possessed by individuals or partnerships, and shall include limited or other partnership associations organized under laws making the capital subscribed alone responsible

for the debts of the association; (7) "court" shall mean the court of bankruptcy in which the proceedings are pending, and may include the referee; (8) "courts of bankruptcy" shall include the district courts of the United States and of the Territories, the supreme court of the District of Columbia, and the United States court of the Indian Territory, and of Alaska; (9) "creditor" shall include anyone who owns a demand or claim provable in bankruptcy, and may include his duly authorized agent, attorney, or proxy; (10) "date of bankruptcy," or "time of bankruptcy," or "commencement of proceedings," or "bankruptcy," with reference to time, shall mean the date when the petition was filed; (11) "debt" shall include any debt, demand, or claim provable in bankruptcy; (12) "discharge" shall mean the release of a bankrupt from all of his debts which are provable in bankruptcy, except such as are excepted by this Act; (13) "document" shall include any book, deed, or instrument in writing; (14) "holiday" shall include Christmas, the Fourth of July, the Twenty-second of February, and any day appointed by the President of the United States or the Congress of the United States as a holiday or as a day of public fasting or thanksgiving; (15) a person shall be deemed insolvent within the provisions of this Act whenever the aggregate of his property, exclusive of any property which he may have conveyed, transferred, concealed, or removed, or permitted to be concealed or removed, with intent to defraud, hinder or delay his cteditors, shall not, at a fair valuation, be sufficient in amount to pay his debts; (16) "judge" shall mean a judge of a court of bankruptcy, not including the referee; (17) "oath" shall include affirmation; (18) "officer" shall include clerk,marshal,

receiver, referee, and trustee, and the imposing of a duty upon or the forbidding of an act by any officer shall include his successor and any person authorized by law to perform the duties of such officer; (19) "persons" shall include corporations, except where otherwise specified, and officers, partnerships, and women, and when used with reference to the commission of acts which are herein forbidden shall include persons who are participants in the forbidden acts, and the agents, officers, and members of the board of directors or trustees, or other similar controlling bodies of corporations; (20) "petition" shall mean a paper filed in a court of bankruptcy or with a clerk or deputy clerk by a debtor praying for the benefits of this Act, or by creditors alleging the commission of an act of bankruptcy by a debtor therein named; (21) "referee" shall mean the referee who has jurisdiction of the case or to whom the case has been referred, or anyone acting in his stead; (22) "conceal" shall include secrete, falsify, and mutilate; (23) "secured, creditor" shall include a creditor who has security for his debt upon the property of the bankrupt of a nature to be assignable under this Act, or who owns such a debt for which some indorser, surety, or other persons secondarily liable for the bankrupt has such security upou the bankrupt's assets; (24) "States" shall include the Territories, the Indian Territory, Alaska, and the District of Columbia; (25) "transfer" shall include the sale and every other and different mode of disposing of or parting with property, or the possession of property, absolutely or conditionally, as a payment, pledge, mortgage, gift, or security; (26) "trustee" shall include all of the trustees of an estate; (27) "wage-earner" shall mean an individual

who works for wages, salary, or hire, at a rate of compensation not exceeding one thousand five hundred dollars per year; (28) words importing the masculine gender may be applied to and include corporations, partnerships, and women; (29) words importing the plural number may be applied to and mean only a single person or thing; (30) words importing the singular number may be applied to and mean several persons or things.

* * *

546

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS ENACTED DURING THE FIRST SESSION OF THE SEVENTY-FIFTH CONGRESS OF THE UNITED STATES OF AMERICA

1937

AND

TREATIES, INTERNATIONAL AGREEMENTS OTHER THAN TREATIES, AND PROCLAMATIONS

COMPILED, EDITED, AND INDEXED BY AUTHORITY OF CONGRESS UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOLUME 50

IN TWO PARTS

PART 1

PUBLIC LAWS

* * *

[CHAPTER 657]

AN ACT

To amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and Acts amendatory thereof and supplementary thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 1, 1898, entitled "An Act to establish a uniform system of bankruptcy throughout the United States", as approved July 1, 1898, and Acts amendatory thereof and supplementary thereto be, and they are hereby, amended by adding thereto a new chapter, to be designated "chapter X", to be and read as follows:

"Chapter X

"ADDITIONAL JURISDICTION

"SEC. 81. This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition of indebtedness of, or authorized by, any of the taxing agencies or instrumentalities hereinafter named, payable (a) out of assessments or taxes, or both, levied against and constituting liens upon property in any of said taxing agencies or instrumentalities, or (b) out of property acquired by foreclosure of any such assessments or taxes or both, or (c) out of income derived by such taxing agencies or instrumentalities from the sale of

water or power or both, or (d) from any combination thereof; (1) Drainage, drainage and levee, levee, levee and drainage, reclamation, water, irrigation, or other similar districts, commonly designated as agricultural improvement districts or local improvement districts, organized or created for the purpose of constructing, improving, maintaining, and operating certain improvements or projects devoted chiefly to the improvement of lands therein for agricultural purposes; or (2) local improvement districts such as sewer, paving, sanitary, or other similar districts, organized or created for the purposes designated by their respective names; or (3) local improvement districts such as road, highway, or other similar districts, organized or created for the purpose of grading, paving, or otherwise improving public streets, roads, or highways; or (4) public-school districts or public-school authorities organized or created for the purpose of constructing, maintaining, and operating public schools or public-school facilities; or (5) local improvement districts such as port, navigation, or other similar districts, organized or created for the purpose of constructing, improving, maintaining, and operating ports and port facilities; or (6) any city, town, village, borough, township, or other municipality: *Provided, however,* That if any provision of this chapter, or the application thereof to any such taxing agency or district or class thereof or to any circumstance, is held invalid, the remainder of the chapter, or the application of such provision to any other or different taxing agency or district or class thereof or to any other or different circumstances, shall not be affected by such holding.

"DEFINITION

"SEC. 82. The following terms as used in this chapter, unless a different meaning is plainly required by the context, shall be construed as follows:

"That the term 'petitioner' shall include any taxing agency or instrumentality referred to in section 81 of this chapter.

"The term 'security' shall include bonds, notes, judgments, claims, and demands, liquidated or unliquidated, and other evidences of indebtedness, either secured or unsecured, and certificates of beneficial interest in property.

"The term 'creditor' means the holder of a security or securities.

"Any agency of the United States holding securities acquired pursuant to contract with any petitioner under this chapter shall be deemed a creditor in the amount of the full face value thereof.

* * *

... of title accordingly and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"(h) This chapter shall not be construed as to modify or repeal any prior, existing statute relating to the refinancing or readjustment of indebtedness of municipalities, political subdivisions, or districts: *Provided, however,* That the initiation of proceedings or the filing of a petition under section 80 shall not constitute a bar to the same taxing agency or instrumentality initiating a new proceeding under section 81 thereof.

"(i) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or govermnental powers, including expenditures therefor.

"TERMINATION OF JURISDICTION

"Sec. 84. Jurisdiction conferred on any court by section 81 shall not be exercised by such court after June 30, 1940, except in respect of any proceeding initiated by filing a petition under section 83(a) on or prior to June 30,1940."

Approved, August 16, 1937.

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* * *

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS ENACTED DURING THE THIRD SESSION OF THE SEVENTY-FIFTH CONGRESS OF THE UNITED STATES OF AMERICA

1938

AND

TREATIES, INTERNATIONAL AGREEMENTS OTHER THAN TREATIES, AND PROCLAMATIONS

COMPILED, EDITED, AND INDEXED BY AUTHORITY OF CONGRESS UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOLUME 52

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* * *

[CHAPTER 575]

AN ACT

To amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and Acts amendatory thereof and supplementary thereto; and to repeal section 76 thereof and all Acts and parts of Acts inconsistent therewith.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1 to 11, inclusive; 14; 15; 17 to 29, inclusive; 31; 32; 34; 35; 37 to 42, inclusive; 44 to 53, inclusive; and 55 to 72, inclusive, of an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended, are hereby amended; and sections 12, 13, 73, 74, 77A, and 77B are hereby amended and incorporated as chapters X, XI, XII, XIII, and XIV; said amended sections to read as follows;

"CHAPTER I—DEFINITIONS

"SECTION 1. MEANING OF WORDS AND PHRASES.—The words and phrases used in this Act and in proceedings pursuant hereto shall, unless the same be inconsistent with the context, be construed as follows:

"(1) 'A person against whom a petition has been filed' shall include a person who has filed a voluntary petition;

"(2) 'Adjudication' shall mean a decree that a person is a bankrupt;

"(3) 'Appellate courts' shall include the circuit courts of appeals of the United States, the United States Court of Appeals of the District of Columbia, and the Supreme Court of the United States;

"(4) 'Bankrupt' shall include a person against whom an involuntary petition or an application to revoke a discharge has been filed, or who has filed a voluntary petition, or who has been adjudged a bankrupt;

"(5) 'Bona-fide purchaser' shall include a bona-fide encumbrancer or pledgee and the transferee, immediate or mediate, of any of them;

"(6) 'Clerk' shall mean the clerk of a court of bankruptcy;

"(7) 'Conceal' shall include secrete, falsify, and mutilate;

"(8) 'Corporation' shall include all bodies having any of the powers and privileges of private corporations not possessed by individuals or partnerships and shall include partnership associations organized under laws making the capital subscribed alone responsible for the debts of the association, joint-stock companies, unincorporated companies and associations, and any business conducted by a trustee or trustees wherein beneficial interest or ownership is evidenced by certificate or other written instrument;

* * *

"(25) 'To record' shall include to register or to file for record or registration;

"(26) 'Referee' shall mean the referee who has jurisdiction of the case or to whom the case has been referred or anyone acting in his stead;

"(27) 'Relatives' shall mean persons related by affinity or consanguinity within the third degree as determined by the common law and shall include the spouse;

"(28) 'Secured creditor' shall include a creditor who has security for his debt upon the property of the bankrupt of a nature to be assignable under this Act or who owns such a debt for which some

endorser, surety, or other person secondarily liable for the bankrupt has such security upon the bankrupt's assets;

"(29) 'States' shall include the Territories and possessions to which this Act is or may hereafter be applicable, Alaska, and the District of Columbia;

"(30) 'Transfer' shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest therein or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, assignment, payment, pledge, mortgage, lien, encumbrance, gift, security, or otherwise;

"(31) 'Trustee' shall include all of the trustees and 'receiver' shall include all of the receivers of an estate;

"(32) 'Wage earner' shall mean an individual who works for wages, salary, or hire, at a rate of compensation not exceeding $1,500 per year;

"(33) Words importing the masculine gender may be applied to and include all persons;

"(34) Words importing the plural number may be applied to and mean only a single person or thing; and

"(35) Words importing the singular number may be applied to and mean several persons or things.

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555

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS ENACTED DURING THE SECOND SESSION OF THE SEVENTY-NINTH CONGRESS OF THE UNITED STATES OF AMERICA

1946

AND

PROCLAMATIONS, TREATIES, INTERNATIONAL AGREEMENTS OTHER THAN TREATIES, AND REORGANIZATION PLANS

COMPILED, EDITED, AND INDEXED BY AUTHORITY OF LAW UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOLUME 60

IN TWO PARTS

PART 1

PUBLIC LAWS

AND

REORGANIZATION PLANS

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* * *

[CHAPTER 532]

AN ACT

To amend sections 81, 82, and 83, and to repeal section 84 of chapter IX of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1808, and Acts amendatory thereof and supplementary thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 81, 82, and 83 of chapter IX of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended (U.S.C., title 11, secs. 401, 402, and 403), are amended to read as follows:

"SEC. 81. This Act and proceedings thereunder are found and declared to be within the subject of bankruptcies and, in addition to the jurisdiction otherwise exercised, courts of bankruptcy shall exercise original jurisdiction as provided in this chapter for the composition of indebtedness of, or authorized by, any of the agencies or instrumentalities hereinafter named, payable (a) out of assessments or taxes, or both, levied against and constituting liens upon property in any of said agencies or instrumentalities, or (b) out of property acquired by foreclosure of any such assessments or taxes or both, or (c) out of income derived by such agencies or instrumentalities from any income-producing property, whether or not secured by a lien upon such property: (1) Drainage, drainage and levee, reclamation, water, irrigation, or other similar

districts, commonly designated as agricultural improvement districts or local improvement districts, organized or created for the purpose of constructing, improving, maintaining, and operating certain improvements or projects devoted chiefly to the improvement of lands therein for agricultural purposes; or (2) local improvement districts, such as sewer, paving, sanitary, or other similar districts, organized or created for the purposes designated by their respective names; or (3) local improvement districts, such as road, highway, or other similar districts, organized or created for the purpose of grading, paving, or otherwise improving public streets, roads, or highways; or (4) public-school districts or public-school authorities organized or created for the purpose of constructing, maintaining, and operating public schools or public-school facilities; or (5) local improvement districts, such as port, navigation, or other similar districts, organized or created for the purpose of constructing, improving, maintaining, and operating ports and port facilities; or (6) incorporated authorities, commissions, or similar public agencies organized for the purpose of constructing, maintaining, and operating revenue-producing enterprises; or (7) any county or parish or any city, town, village, borough, township, or other municipality: *Provided, however,* That if any provision of this chapter, or the application thereof to any such agency or district or class thereof or to any circumstance, is held invalid, the remainder of the chapter, or the application of such provision to any other or different circumstances, shall not be affected by such holding.

"Sec. 82. The following terms as used in this chapter, unless a different meaning is plainly

required by the context, shall be construed as follows:

"The term 'petitioner' shall include any agency or instrumentality referred to in section 81 of this chapter.

"The term 'security' shall include bonds, notes, judgments, claims, and demands, liquidated or unliquidated, and other evidences of indebtedness, either secured or unsecured, and certificates of beneficial interest in property.

"The term 'creditor' means the holder of a security or securities.

"Any agency of the United States holding securities acquired pursuant to contract with any petitioner under this chapter shall be deemed a creditor in the amount of the full face value thereof.

"The term 'security affected by the plan' means a security as to which the rights of its holder are proposed to be adjusted or modified materially by the consummation of a composition agreement.

"The singular number includes the plural and the masculine gender the feminine.

"SEC. 83. (a) Any petitioner may file a petition hereunder stating that the petitioner is insolvent or unable to meet its debts as they mature and that it desires to effect a plan for the composition of its debts. The petition shall be filed with the court in whose territorial jurisdiction the petitioner or the major part thereof is located, and, in the case of any unincorporated tax or special-assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to

meet the obligations to be affected by the plan of composition. The petition shall be accompanied by payment to the clerk of a filing fee of $100, which shall be in lieu of the fees required to be collected by the clerk under other applicable chapters of this title, as amended. The petition shall state that a plan of composition has been prepared, is filed and submitted with the petition, and that creditors of the petitioner owning not less than 51 per centum in amount of the securities affected by the plan (excluding, however, any such securities owned, held, orcontrolled by the petitioner) have accepted it in writing. There shall be filed with the petition a list of all known creditors of the petitioner, together with their addresses so far as known to petitioner, and description of their respective securities showing separately those who have accepted the plan of composition, together with their separate addresses, the contents of which list shall not constitute admissions by the petitioner in a proceeding under this chapter or otherwise. Upon the filing of such a petition the judge shall enter an order either approving it as properly filed under this chapter, if satisfied that such petition complies with this chapter and has been filed in good faith, or dismissing it, if not so satisfied.

"Whenever the petition seeks to effect a plan for the composition of obligations represented by securities, or evidences in any form of rights to payment, issued by the petitioner to defray the cost of local improvements and which are payable solely out of the proceeds of special assessments or special taxes levied by the petitioner, or issued by the petitioner to finance one or more revenue-producing enterprises payable solely out of the revenues of such

enterprise or enterprises, it shall be sufficient if the petitioner aver that the property liable for, or the revenues pledged to the payment of such securities, principal, and interest is not of sufficient value, or that the revenues of the enterprise or enterprises are inadequate to pay same, and that the accrued interest on such securities is past due and in default; and the list of creditors to be filed with such petition need contain only the known claimants of rights based on those securities evidencing the obligations sought to be composed under this chapter, and such list shall include separately the names and addresses of those creditors who have accepted the plan of composition. If the plan of composition sought to be effected requires a revision of assessments so that the proportion of special assessments or special taxes to be assessed against some of the lands will be different from the proportion in effect at the time the petition is filed, a list of the record owners or holders of title, legal or equitable, to any real estate adversely affected in the proceeding shall also be filed with the petition, and such record owners or holders of title shall be notified in the manner provided in this section for creditors and be entitled to hearing by the court upon reasonable application therefor.

"The 'plan of composition', within the meaning of this chapter, may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire.

"No creditor shall be deemed to be affected by any plan of composition unless the same shall affect his interest materially, and in case any controversy shall arise as to whether any creditor or class of creditors shall or shall not be affected, the issue shall be determined by the judge, after hearing, upon notice to the parties interested.

"For all purposes of this chapter any creditor may act in person or by an attorney or a duly authorized agent or committee. Where any committee, organization, group, or individual shall assume to act for or on behalf of creditors; such committee, organization, group, or individual shall first file with the court in which the proceeding is pending a list of the creditors represented by such committee, organization, group, or individual, giving the name and address of each such creditor, together with a statement of the amount, class, and character of the security held by him, and attach thereto copies of the instrument or instruments in writing signed by the owners of the bonds showing their authority, and shall file with the list a, copy of the contract or agreement entered into between such committee, organization, group, or individual and the creditors represented by it or them, which contract shall disclose all compensation to be received, directly or indirectly, by such committee, organization, group, or individual, which agreed compensation shall be subject to modification and approval by the court.

"(b) Upon approving the petition as properly filed, or at any time thereafter, the judge shall enter an order fixing a time and place for a hearing on the petition, which shall be held within ninety days from the date of said order, and shall provide in the order

that notice, shall be given to creditors of the filing of the petition and its approval as being properly filed, and of the time and place for the hearing. The judge shall prescribe the form of the notice, which shall specify the manner in which claims and interests of creditors shall be filed or evidenced, on or before the date fixed for the hearing. The notice shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other paper or papers having a general circulation among bond dealers and. bondholders as may be designated by the court, and the judge may require that it may be published in such other publication as he may deem proper. The judge shall require that a copy of the notice be mailed; postage prepaid, to each creditor of the petitioner named in the petition at the address of such creditor given in the petition, or, if no address is given in the petition for any creditor and the address of such creditor cannot with reasonable diligence be ascertained, then a copy of the notice shall be mailed, postage prepaid, to such creditor addressed to him as the judge may prescribe. All expense of giving notice as herein provided shall be paid by the petitioner. The notice shall be first published, and the mailing of copies thereof shall be completed, at least sixty days before the date fixed for the hearing.

"At any time not less than ten days prior to the time fixed for the hearing, any creditor of the petitioner affected by the plan may file an answer to the petition controverting any of the material allegations therein and setting up any objection he may have to the plan of composition. The judge may continue the hearing from time to time if the

percentage of creditors required herein for the confirmation of the plan shall not have accepted the plan in writing, or if for any reason satisfactory to the judge the hearing is not completed on the date fixed therefor. At the hearing, or a continuance thereof, the judge shall decide the issues presented and unless the material allegations of the petition are sustained shall dismiss the proceeding. If, however, the material allegations of the petition are sustained, the judge shall classify the creditors according to the nature of their respective claims and interest: *Provided, however*, That the holders of all claims, regardless of the manner in which they are evidenced, which are payable without preference out of funds derived from the same source or sources shall be of one class. The holders of claims for the payment of which specific property or revenues are pledged, or which are otherwise given preference as provided by law, shall accordingly constitute a separate class or classes of creditors.

"At the hearing or a continuance thereof the judge may refer any special issues of fact to a referee in bankruptcy or a special master for consideration, the taking of testimony, and a report upon such special issues of fact, if the judge finds that the condition of his docket is such that he cannot take such testimony without unduly delaying the dispatch of other business pending in his court, and if it appears that such special issues are necessary to the determination of the case. Only under special circumstances shall references be made to a special master who is not a referee in bankruptcy. A general reference of the case to a master shall not be made, but the reference, if any, shall he only in the form of requests for findings of specific facts.

"The court may allow reasonable compensation for the services performed by such referee in bankruptcy or special master, and the actual and necessary expenses incurred in connection with the proceeding, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work may have been done by the petitioner or by committees or other representatives of creditors, and may allow reasonable compensation for the attorneys or agents of any of the foregoing: *Provided, however*, That no fees, compensation, reimbursement, or other allowances for attorneys, agents, committees, or other representatives of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan of composition. An appeal may be taken from any order making such determination or award to the United States circuit court of appeals for the circuit in which the proceeding under this chapter is pending, independently of other appeals which may be taken in the proceeding, and such appeal shall be heard summarily.

"Such compensation of referees in bankruptcy and special masters shall not be governed by section 40 of this Act.

"On thirty days' notice by any creditor to petitioner, the judge, if he finds that the proceeding has not been prosecuted with reasonable diligence, or that it is unlikely that the plan will be accepted by said proportion of creditors, may dismiss the proceeding.

"(c) Upon entry of the order fixing the time for the hearing, or at any time thereafter, the judge may upon notice enjoin or stay, pending the determination of the matter, the commencement or continuation of suits against the petitioner, or any officer or inhabitant thereof, on account of the securities affected by the plan, or to enforce any lien or to enforce the levy of taxes or assessments for the payment of obligations under any such securities, or any suit or process to levy upon or enforce against any property acquired by the petitioner through foreclosure of any such tax lien or special assessment lien, except where rights have become vested, and may enter an interlocutory decree providing that the plan shall be temporarily operative with respect to all securities affected thereby and that the payment of the principal or interest, or both, of such securities shall be temporarily postponed or extended or otherwise read justed in the same manner and upon the same terms as if such plan had been finally confirmed and put into effect, and upon the entry of such decree the principal or interest, or both, of such securities which have otherwise become due, or which would otherwise become due, shall not be or become due or payable, and the payment of all such securities shall be postponed during the period in which such decree shall remain in force, but shall not, by any order or decree, in the proceeding or otherwise, interfere with (a) any of the political or governmental powers of the petitioner; or (b) any of the property or revenues of the petitioner necessary for essential governmental purposes; or (c) any income-producing property, unless the plan of composition so provides.

"Any agency or instrumentality referred to in section 81 of this chapter may file a petition for a preliminary stay with the court referred to in section 83(a) stating (a) that the petitioner is insolvent or unable to meet its debts as they mature; (b) that it desires to effect a plan for the composition of its debts, a copy of which is filed and submitted with the petition; (c) that a creditor of the petitioner holding a security affected by the plan or a person claiming to be such a creditor (naming him and giving his address and the name and address of his attorney of record, if any), is attempting or threatening to obtain payment of said security in preference to other creditors by means of the commencement or continuation of a suit or process of the class hereinbefore in this section 83(c) described; (d) that efforts are being made in good faith to the end that creditors of the petitioner owning not less than 51 per centum in amount of the securities affected by the plan excluding, however, any such securities owned, held, or controlled by the petitioner) hass acceptance within a reasonable time; (f) that upon such acceptance the petitioner intends to file a petition under section 83(a) of this chapter; and (g) that the petitioner prays that the judge will upon notice enjoin or stay the commencement or continuation of said suit or process. A single petition may seek the preliminary stay of several suits or processes brought or threatened by the same or different creditors or persons claiming to be creditors. The petition shall be accompanied by the filing fee required in section 83(a) of this chapter, unless such fee shall have been paid upon the filing of an earlier petition for a preliminary stay involving the same plan, and no further fee shall be required

upon the subsequent filing of a petition under said section 83(a). Upon such petition the judge shall fix a time and place for hearing and direct that notice thereof shall be given in such manner as he shall prescribe to said creditor or person claiming to be a creditor and to any other person deemed by him to be interested. After such hearings, and upon being satisfied of the truth of the allegations of the petition, the judge may, in his discretion, except where rights have become vested, enjoin or stay the commencement and continuation of said suit or process until a date fixed by him in his order not exceeding sixty days from the date of entry thereof. The judge shall retain jurisdiction to vacate said injunction or stay, or to extend the period thereof for one additional period of not exceeding sixty days, upon good cause shown.

"(d) The plan of composition shall not be confirmed until it has been accepted in writing, by or on behalf of creditors holding at least two-thirds of the aggregate amount of claims of all classes affected by such plan and which have been admitted by the petitioner or allowed by the judge, but excluding claims owned, held, or controlled by the petitioner: *Provided, however,* That it shall not be requisite to the confirmation of the plan that there be such acceptance by any creditor or class of creditors (a) whose claims are not affected by the plan; or (b) if the plan makes provision for the payment of their claims in cash in full; or (c) if provision is made in the plan for the protection of the interests, claims, or lien of such creditors or class of creditors.

"(e) Before concluding the hearing, the judge shall carefully examine all of the contracts, proposals,

acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if the fiscal agent, attorney, or other person, firm, or corporation promoting the composition, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and the creditors thereof, or any of such creditors either by fee, commission, or other similar payment, or by transfer or exchange of bonds or other evidence of indebtedness whereby a profit could accrue and shall take evidence under oath to make certain whether or not any such practice obtains or might obtain, "After such examination the judge shall make an adjudication of this issue, as a separate part of his interlocutory decree, and if it be found that any such practice exists, he shall forthwith dismiss the proceeding and tax all of the costs against such fiscal agent, attorneyor other person, firm, or corporation promoting the composition, or doing anything of such a nature, or against the petitioner, unless such plan be modified within the time to be allowed by the judge so as to eliminate the possibility of any such practice, in which event the judge may proceed to further consideration of the confirmation of the plan. If it be found that no such practice exists, then the judge may proceed to further consideration of the confirmation of the plan.

"At the conclusion of the hearing, the judge shall make written findings of fact and his conclusions of law thereon, and shall enter an interlocutory decree confirming the plan if he finds and is satisfied that (1) it is fair, equitable, and for the best interests of the creditors and does not discriminate unfairly in favor of any creditor or class of creditors; (2) complies

with the provisions of this chapter; (3) has been accepted and approved as required by the provisions of subdivision (d) of this section; (4) all amounts to be paid by the petitioner for services or expenses incident to the composition have been fully disclosed and are reasonable; (5) the offer of the plan and its acceptance are in good faith; and (6) the petitioner is authorized by law to take all action necessary to be taken by it to carry out the plan. If not so satisfied, the judge shall enter an order dismissing the proceeding. No case shall be reversed or remanded for want of specific or detailed findings unless it is found that the evidence is insufficient to support one or more of the general findings required in this section.

"Before a plan is confirmed, changes and modifications may be made therein with the approval of the judge after hearing upon such notice to creditors as the ludge may direct, subject to the right of any creditor who shall previously have accepted the plan to withdraw his acceptance, within a period to be fixed by the judge and after such notice as the judge may direct, if, in the opinion of the judge, the change or modification will be materially adverse to the interest of such creditor, and if any creditor having such right of withdrawal shall not withdraw within such period, he shall be deemed to have accepted the plan as changed or modified: *Provided, however*, That the plan as changed or modified shall comply with all the provisions of this chapter and shall have been accepted in writing by the petitioner. Either party may appeal from the interlocutory decree as in equity cases. In case said interlocutory decree shall prescribe a time within which any action is to be taken, the running of such

time shall be suspended in case of an appeal until final determination thereof. In case said decree is affirmed, the judge may grant such time as he may deem proper for the taking of such action.

"(f) In an interlocutory decree confirming the plan is entered as provided in subdivision (e) of this section, the plan and said decree of confirmation shall become and be binding upon all creditors affected by the plan, if within the time prescribed in the interlocutory decree, or such additional time as the judge may allow, the money, securities, or other consideration to be delivered to the creditors under the terms of the plan shall have been deposited with the court or such disbursing agent as the court may appoint or shall otherwise be made available for the creditors. And thereupon the court shall enter a final decree determining that the petitioner has made available for the creditors affected by the plan the consideration provided for therein and is discharged from all debts and liabilities dealt with in the plan except as provided therein, and that the plan is binding upon all creditors affected by it, whether secured or unsecured, and whether or not their claims have been filed or evidenced, and, if filed or evidenced, whether or not allowed, including creditors who have not, as well as those who have, accepted it. If securities are deposited by the petitioner with the court or disbursing agent for delivery to the creditors, such final decree shall not be entered unless the court finds and adjudicates that said securities have been lawfully authorized and, upon delivery, will constitute valid obligations of the petitioner, and that the provisions made to pay and secure payment thereof are valid.

"(g) A certified copy of the final decree, or of any other decree or order entered by the court or the judge thereof, in a proceeding under this chapter, shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the decree or order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"(h) This chapter shall not be construed as to modify or repeal any prior existing statute relating to the refinancing or readjustment of indebtedness of municipalities, political subdivisions, or districts: *Provided, however*, That the initiation of proceedings or the filing of a petition under section 80 of this Act shall not constitute a bar to the same agency or instrumentality initiating a new proceeding under section 81 of this chapter.

"(i) Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however*, That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"(j) The partial completion or execution of any plan of composition as outlined in any petition filed

under the terms of this Act by the exchange of new evidences of indebtedness under the plan for evidences of indebtedness covered by the plan, whether such partial completion or execution of such plan of composition occurred nefore or after the filing of said petition, shall not be construed as limiting or prohibiting the effect of this title, and the written consent of the holders of any securities outstanding as the result of any such partial completion or execution of any plan of composition shall be included as consenting creditors to such plan of composition in determining the percentage of securities affected by such plan of composition."

SEC. 2. Section 84 of chapter IX of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended by the Acts of August 16, 1937, June 28, 1940, and June 22, 1942, is hereby repealed.

Approved July 1, 1946.

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UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS ENACTED DURING THE SECOND SESSION OF THE EIGHTY-SECOND CONGRESS OF THE UNITED STATES OF AMERICA

1952

AND

REORGANIZATION PLANS AND PROCLAMATIONS

VOLUME 66

IN ONE PART

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* * *

Public Law 447 [CHAPTER 567]

JOINT RESOLUTION

Approving the constitution of the Commonwealth of Puerto Rico which was adopted by the people of Puerto Rico on March 3, 1952.

Whereas the Act entitled "An Act to provide for the organization of a constitutional government by the people of Puerto Rico", approved July 3, 1950, was adopted by the Congress as a compact with the people of Puerto Rico, to become operative upon its approval by the people of Puerto Rico; and

Whereas the people of Puerto Rico overwhelmingly approved such Act in a referendum held on June 4, 1951, and a constitution for the Commonwealth of Puerto Rico was drafted by a constitutional convention held as provided by such Act from September 17, 1951, to February 6, 1952; and

Whereas such constitution was adopted by the people of Puerto Rico, by a vote of three hundred seventy-four thousand six hundred and forty-nine to eighty-two thousand nine hundred and twenty-three, in a referendum held on March 3, 1952; and

Whereas the President of the United States has declared that the constitution of the Commonwealth of Puerto Rico conforms fully with the applicable provisions of such Act of July 3, 1950, and of the Constitution of the United States, that it contains a bill of rights, and provides for a republican form of government, and has transmitted the constitution of the Commonwealth of Puerto Rico to the Congress for its approval; and

Whereas the Congress has considered the constitution of the Commonwealth of Puerto Rico and has found it duly to conform to the above requirements: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the constitution of the Commonwealth of Puerto Rico which was drafted by the selected delegates to the Constitutional Convention of Puerto Rico and adopted by the people of Puerto Rico in a referendum of March 3,1952, in accordance with the Act entitled "An Act to provide for the organization of a constitutional government

by the people of Puerto Rico", approved July 3, 1950 (64 Stat. 319; 48 U.S.C., secs. 731b-731e), is hereby approved by the Congress of the United States, except section 20 of article II of said constitution: *Provided*, That section 5 of article II thereof shall have no force and effect until amended by the people of Puerto Rico under the procedure prescribed by article VII of the constitution of the Commonwealth of Puerto Rico by adding to such section 5 the following declaration: "Compulsory attendance at elementary public schools to the extent permitted by the facilities of the state as herein provided shall not be construed as applicable to those who receive elementary education in schools established under nongovernmental auspices": *Provided further*, That except for the purpose of adopting the amendments to section 5 of article II and to section 3 of article VII as herein provided, article VII of said constitution likewise shall have no force and effect until amended by the people of Puerto Rico under the terms of said article by adding to section 3 of article VII the following new sentence: "Any amendment or revision of this constitution shall be consistent with the resolution enacted by the Congress of the United States approving this constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rican Federal Relations Act, and with Public Law 600, Eighty-first Congress, adopted in the nature of a compact": *And provided further*, That the constitution of the Commonwealth of Puerto Rico hereby approved shall become effective when the Constitütional Convention of. Puerto Rico shall have declared in a formal resolution its acceptance in the name of the people of Puerto Rico of the conditions of approval herein

contained, and when the Governor of Puerto Rico, being duly notified by the proper officials of the Constitutional Convention of Puerto Rico that such resolution of acceptance has been formally adopted, shall issue a proclamation to that effect.

Approved July 3, 1952.

* * *

UNITED STATES
STATUTES AT LARGE
CONTAINING THE
LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF
THE EIGHTY-SECOND CONGRESS OF THE
UNITED STATES OF AMERICA
1976
AND
PROCLAMATIONS

VOLUME 90
IN TWO PARTS

PART 1
PUBLIC LAWS 94-206 THROUGH 94-454

* * *

Public Law 94-260
94th Congress

An Act

To amend chapter IX of the Bankruptcy Act to provide by voluntary reorganization procedures for the adjustment of the debts of municipalities.

Whereas the Congress finds and declares this Act and proceedings thereunder providing for the composition of indebtedness of, or authorized by, municipalities to be within the subject of bankruptcies under article I, section 8, clause 4 of the United States Constitution; and

Whereas the Congress finds that the impracticability of existing Federal bankruptcy remedies for use by municipalities increases the likelihood of their default and will aggravate the adverse effects thereof; and Whereas the Congress finds that the financial disruptions and dislocations resulting from default of such municipalities without availability of a Federal procedure to restructure their indebtedness in such fashion as to avoid continuing insolvency would have a substantial adverse effect on interstate commerce within the meaning of article I, section 8, clause 3 of the United States Constitution, by reason of the commercial importance of the municipalities involved.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter IX Bankruptcy Act, of the Bankruptcy Act is amended to read as follows:

"Chapter IX

"ADJUSTMENT OF DEBTS OF POLITICAL SUBDIVISIONS AND PUBLIC AGENCIES AND INSTRUMENTALITIES

"SEC. 81. Chapter IX Definitions—As used in this chapter the term—

"(1) 'claim' includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under section 63 of this Act and whether secured or unsecured, liquidated or unliquidated as to amount, fixed or contingent;

"(2) 'court' means court of bankruptcy in which the case is pending, or a judge of such court;

"(3) 'creditor' means holder (including the United States a State, or political subdivision or public agency or instrumentality of a State) of a claim against the petitioner;

"(4) 'claim affected by the plan' means claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified by the plan;

"(5) 'debt' means claim allowable under section 88(a);

"(6) 'lien' means security interest in property, lien obtained on property by levy, sequestration, or other legal or equitable process, statutory or common law lien on property, or any other variety of charge against property to secure the performance of an obligation;

"(7) 'person' includes a corporation or a partnership, the United States, the several States, and political subdivisions and public agencies and instrumentalities of the several States;

"(8) 'petitioner' means agency, instrumentality, or subdivision which has filed a petition under this chapter;

"(9) 'plan' means plan filed under section 90;

"(10) 'special tax payer' means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of obligations issued by the petitioner to defray the costs of local improvements; and "(11) 'special tax payer affected by the plan' means special tax payer with respect to whose real estate the plan proposes to increase the proportion of

special assessments or special taxes referred to in paragraph (10) of this section assessed against that real estate.

"SEC. 82. JURISDICTION AND POWERS OF COURT.—

"(a) JURISDICTION.—The court in which a petition is filed under this chapter shall exercise exclusive original jurisdiction for the adjustment of the petitioner's debts, and for the purposes of this chapter, shall have exclusive jurisdiction of the petitioner and its property, wherever located.

"(b) POWERS.—After the filing of a petition under this chapter the court may—

"(1) permit the petitioner to reject executory contracts and unexpired leases of the petitioner, after hearing on notice to the parties to such contracts leases and to such other parties in interest as the court may designate;

"(2) during the pendency of a case under this chapter, or after the confirmation of the plan if the court has retained jurisdiction under section 96(e), after hearing on such notice as the court may prescribe and for cause shown, permit the issuance of certificates of indebtedness for such consideration as is approved by the court, upon such terms and conditions, and. with such security and priority in payment over existing obligations, secured or unsecured, and over costs and expenses of administration, not including operating expenses of the petitioner, as in the particular case may be equitable; and

"(3) exercise such other powers as are not inconsistent with the provisions of this chapter.

"(c) LIMITATION.—Unless the petitioner consents or the plan so provides, the court shall not, by any stay, order or decree, in the case or otherwise, interfere with—

"(1) any of the political or governmental powers of the petitioner;

"(2) any of the property or revenues of the petitioner; or "(3) the petitioner's use or enjoyment of any income-producing property.

"(d) DESIGNATION OF JUDGE.—After the filing of a petition, the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

"SEC. 83. RESERVATION OF STATE POWER TO CONTROL GOVERNMENTAL FUNCTIONS OF POLITICAL SUBDIVISIONS.—Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"SEC. 84. ELIGIBILITY FOB RELIEF.—Any State's political subdivision or public agency or instrumentality, which is generally authorized to file

a petition under this chapter by the legislature, or by a governmental officer or organization empowered by State law to authorize the filing of a petition, is eligible for relief under this chapter if it is insolvent or unable to meet its debts as they mature, and desires to effect a plan to adjust its debts. An entity is not eligible for relief under this chapter unless—

"(1) it has successfully negotiated a plan of adjustment of its debts with creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

"(2) it has negotiated in good faith with its creditors and has failed to obtain, with respect to a plan of adjustment of its debts, the agreement of creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

"(3) such negotiation is impracticable; or "(4) it has a reasonable fear that a creditor may attempt to obtain a preference.

"SEC. 85. PETITION AND PROCEEDINGS RELATING TO PETITION.—

"(a) PETITION.—An entity eligible under section 84 may file a petition for relief under this chapter. In the case of an unincorporated tax or special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of the district. Any party in interest may file an answer to the petition with the court, not later than 15 days after the publication of notice required by subsection (d) is completed, objecting to the filing of the petition.

Upon the filing of such an answer, the court may dismiss the petition after hearing on notice if the petitioner did not file the petition in good faith, or if the petition does not meet the requirements of this chapter. The court shall not, on account of an appeal from a finding of jurisdiction, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction shall not affect the validitv of any certificate of indebtedness authorized by the court and issued in such case.

"(b) LIST.—The petitioner shall file with the court a list of the petitioner's creditors, insofar as practicable. The list shall include for each known creditor, to the extent practicable, the name of the creditor, the address of the creditor so far as known to the petitioner, and a description of any claim of the creditor, showing the amount and character of the claim, the nature of any security for the claim, and whether the claim is disputed, contingent or unliquidated as to amount. If an identification of any of the petitioner's creditors is impracticable, the petitioner shall state the reason such identification is impracticable and the character of the claims of the creditors involved. The petitioner shall supplement the list as creditors who were, unknown or unidentified at the time the list was filed become known or identified to the petitioner. If the list is not filed with the petition, the petitioner shall file the list at such later time as the court, upon its own motion or upon application of the petitioner, sets.

* * *

UNITED STATES
STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF
THE NINETY-FIFTH CONGRESS OF THE
UNITED STATES OF AMERICA

1978

AND

PROCLAMATIONS

VOLUME 92
IN THREE PARTS

PART 1
PUBLIC LAWS 95-224 THROUGH 95-472

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* * *

Public Law 95-598
95th Congress

An Act

To establish a uniform Law on the Subject of Bankruptcies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ENACTMENT OF TITLE 11 OF THE UNITED STATES CODE

SEC. 101. The law relating to bankruptcy is codified and enacted as title 11 of the United States Code, entitled "Bankruptcy", and may be cited as 11 U.S.C. § , as follows:

TITLE 11—BANKRUPTCY

Chapter ..... Sec.
1. General Provisions 101
3. Case Administration 301
5. Ceeditobs, the Debtor, and the Estate 501
7. Liquidation 701
9. Adjustment of Debts of a Municipality 901
II. Reorganization 1101
13. Adjustment of Debts of an Individual With Regular Income 1301
15. United States Trustees 1501

CHAPTER 1—GENERAL PROVISIONS

Sec.
101. Definitions.
102. Rules of construction.
103. Applicability of chapters.
104. Adjustment of dollar amounts.
105. Power of court.
106. Waiver of sovereign immunity.
107. Public access to papers.
108. Extension of time.
109. Who may be a debtor.

§101. Definitions

In this title—

(1) "accountant" means accountant authorized under applicaable law to practice public accounting,

and includes professional accounting association, corporation, or partnership, if so authorized;

(2) "affiliate" means—

(A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

(D) entity that operates the business or all or substantially all of the property of the debtor under a lease or operating agreement;

(3) "attorney" means attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law;

(4) "claim" means—

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured;

(5) "commodity broker" means futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer, as defined in section 761 of this title, with respect to which there is a customer, as defined in section 761 (9) of this title;

(6) "community claim" means claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a) (2) of this title is liable, whether or not there is any such property at the time of the commencement of the case;

(7) "consumer debt" means debt incurred by an individual primarily for a personal, family, or household purpose;

(8) "corporation"—

(A) includes—

(i) association having a power or privilege that a private corporation, but not an individual or a partnership possesses;

(ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

(iii) joint-stock company;

(iv) unincorporated company or association; or

(v) business trust; but

(B) does not include limited partnership:

(9) "creditor" means—

(A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

(B) entity that has a claim against the estate of a kind specified in section 502(f), 502(g), 502(h) or 502(i) of this title; or

(C) entity that has a community claim;

(10) "custodian" means—

(A) receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

(B) assignee under a general assignment for the benefit of the debtor's creditors; or

(C) trustee, receiver, oi' agent under applicable lav, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors;

(11) "debt" means liability on a claim;

(12) "debtor" means person or municipality concerning which a case under this title has been commenced;

(13) "disinterested person" means person that—

(A) is not a creditor, an equity security holder, or an insider;

(B) is not and was not an investment banker for any outstanding security of the debtor;

(C) has not been, within three years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor ,

(D) is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C) of this paragraph; and (E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker specified in subparagraph (B) or (C) of this paragraph, or for any other reason;

(14) "entity" includes person, estate, trust, governmental unit;

(15) "equity security" means—

(A) share in a corporation, whether or not transferable or denominated "stock", or similar security;

(B) interest of a limited partner in a limited partnership;

or

(C) warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B) of this paragraph;

(16) "equity security holder" means holder of an equity security of the debtor;

(17) "farmer" means person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a fanning operation owned or operated by such person;

(18) "farming operation" includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state;

(19) "foreign proceeding" means proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at

the commencement. of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization;

(20) "foreign representative" means duly selected trustee, administrator, or other representative of an estate in a foreign proceeding;

(21) "governmental unit" means United States; State: Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government;

(22) "indenture" means mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor;

(23) "indenture trustee" means trustee under an indenture;

(24) "individual with regular income" means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title, other than a stock broker or a commodity broker;

(25) "insider" includes—

(A) if the debtor is an individual—

(i) relative of the debtor or of a general partner of the debtor;

(ii) partnership in which the debtor is a general partner;

(iii) general partner of the debtor; or

(iv) corporation of which the debtor is a director, officer, or person in control;

(B) if the debtor is a corporation—

(i) director of the debtor;

(ii) officer of the debtor;

(iii) person in control of the debtor;

(iv) partnership in which the debtor is a general partner;

(v) general partner of the debtor; or

(vi) relative of a general partner, director, officer, or person in control of the debtor;

(C) if the debtor is a partnership—

(i) general partner in the debtor;

(ii) relative of a general partner in, general partner of, or person in control of the debtor;

(iii) partnership in which the debtor is a general partner;

(iv) general partner of the debtor; or

(v) person in control of the debtor;

(D) if the debtor is a municipality, elected official of the debtor or relative of an elected official of the debtor;

(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) managing agent of the debtor;

(26) "insolvent" means—

(A) with reference to an entity other than a partnership, financial condition such that the sum of such entity's debts is greater than all of such entity's property, at a fair valuation, exclusive of—

(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

(ii) property that may be exempted from property of the estate under section 522 of this title; and

(B) with reference to a partnership, financial condition such that the sum of such partnership's debts is greater than the aggregate, of, at a fair valuation—

(i) all of such partnership's property, exclusive of property of the kind specified in subparagraph (A) (i) of this paragraph; and

(ii) the sum of the excess of the value of each general partner's separate property, exclusive of property of tire kind specified in subparagraph (A)(ii) of this paragraph, over such partner's separate debts;

(27) "judicial lien" means lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding;

(28) "lien" means charge against or interest in property to secure payment of a debt or performance of an obligation;

(29) "municipality" means political subdivision or public agency or instrumentality of a State;

(30) "person" includes individual, partnership, and corporation, but does not include governmental unit;

(31) "petition" means petition filed under section 301, 302, 303, or 304 of this title, as the case may be, commencing a case under this title;

(32) "purchaser" means transferee of a voluntary transfer, and includes immediate or mediate transferee of such a transferee;

(33) "railroad" means common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common, carrier;

(34) "relative" means individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree;

(35) "security"—

(A) includes—

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) debenture;

(vi) collateral trust certificate;

(vii)pre-organization certificate or subscription;

(viii) transferable share;

(ix) voting-trust certificate;

(x) certificate of deposit;

(xi) certificate of deposit for security;

(xii) investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of such Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;

(xiii) interest of a limited partner in a limited partnership;

(xiv) other claim or interest commonly known as "security"; and

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a secuity; but

(B) does not include—

(i) currency, check, draft, bill of exchange, or bank letter of credit;

(ii) leverage transaction, as defined in section 761 (13) of this title;

(iii) commodity futures contract or forward commodity contract;

(iv) option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

(v) option to purchase or sell a commodity;

(vi) contract or certificate specified in clause (xii) of subparagraph (A) of this paragraph that is not the subject of such a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) or the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or

(vii) debt or evidence of indebtedness for goods sold and delivered or services rendered;

(36) "security agreement" means agreement that creates or provides for a security interest;

(37) "security interest" means lien created by an agreement;

(38) "statutory lien" means lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute;

(39) "stockbroker" means person with respect to which there is a customer, as defined in section 741(2) of this title, engaged in the business of effecting transactions in securities—

(A) for the accounts of others; or

(B) with members of the general public, from or for such person's own account; and

(40) "transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property

or with an interest in property, including retention of title as a security interest.

* * *

(c) A section made applicable in a case under this chapter by subsection (a) of this section that is operative if the business of the debtor is authorized to be operated is **operative** in a case under this chapter.

§ 902. Definitions for this chapter

In this chapter—

(1) "property of the estate", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means property of the debtor;

(2) "special tax payer" means record owner or holder of title, legal or equitable, to real property against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of an obligation issued by the debtor to defray the cost of an improvement relating to such real property;

(3) "special tax payer affected by the plan" means special tax payer with respect to whose real property the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (2) of this section assessed against such real property; and

(4) "trustee", when used in a section that is made applicable in a case under this chapter by section 103(e) or 901 of this title, means debtor, except as provided in section 926 of this title.

§ 903. Reservation of State power to control municipalities

This chapter does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of such municipality, including expenditures for such exercise, but—

(1) a State law prescribing a method of composition of indebtedness of such municipality may not bind any creditor that does not consent to such composition; and

(2) a judgment entered under such a law may not bind a creditor to tbat does not consent to such composition.

§ 904. Limitation on jurisdiction and powers of court

Notwithstanding any power of the court, unless the debtor consents or the plan so provides, the court may not, by any stay, order, or decree, in the case or otherwise, interfere with—

(1) any of the political or governmental powers of the debtor;

(2) any of the property or revenues of the debtor; or

(3) the debtor's use or enjoyment of any income-producing property.

SUBCHAPER II—ADMINISTRATION

§ 921. Petition and proceedings relating to petition

(a) Notwithstanding sections 109(c) and 301 of this title, a case under this chapter concerning an unincorporated tax or special assessment district that does not nave such district's own officials is commenced by the filing under section 301 of this title of a petition under this chapter by such district's governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of such district.

(b) The chief judge of the court of appeals for the circuit embracing the district in which the case is commenced shall designate the bankruptcy judge to conduct the case.

* * *

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS ENACTED DURING THE SECOND SESSION OF THE NINETY-EIGHTH CONGRESS OF THE UNITED STATES OF AMERICA

1984

AND

PROCLAMATIONS

VOLUME 98

IN THREE PARTS

PART 1

PUBLIC LAWS 98-216 THROUGH 98-369

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* * *

Public Law 98-353
98th Congress

An Act

To amend title 28 of the United States Code regarding jurisdiction of bankruptcy proceedings, to establish new Federal judicial positions, to amend title 11 of the United States Code, and for other purposes.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bankruptcy Amendments and Federal Judgeship Act of 1984".

TITLE I—BANKRUPTCY JURISDICTION AND PROCEDURE

SEC. 101. (a) Section 1334 of title 28, United States Code, is amended to read as follows:

"§ 1334. Bankruptcy cases and proceedings

"(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

"(c)(1) Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

"(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an

action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain made under this subsection is not reviewable by appeal or otherwise. This subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

"(d) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor as of the commencement of such case, and of the estate."

(b) The table of sections for chapter 85 of title 28, United States Code, is amended by amending the item relating to section 1334 to read as follows:

"1334. Bankruptcy cases and proceedings.".

* * *

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "and" after "trust,"

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting in lieu thereof 'stockbroker".

(f) Section 101(26)(B)(ii) of title 11 of the United States Code is amended by—

(1) striking out "separate" each place it appears and inserting in lieu thereof "nonpartnership"; and

(2) striking out "(A)(ii) and inserting in lieu thereof "(A)".

(g) Section 101(30) of title 11 of the United States Code is amended to read as follows:

(30) "person" includes individual, partnership, and corporation, but does not include governmental unit, *Provided, however,* That any governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, will be considered a person for purposes of section 1102 of this title.

(h) Section 101(38)(B)(vi) of title 11 of the United States Code, as redesignated by section 391 of this Act, is amended by—

(1) striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting in lieu thereof "certificate of a kind specified in subparagraph (A)(xii)"; and

(2) striking out "the subject of such a registration statement" and inserting in lieu thereof "required to be the subject of a registration statement".

(i) Section 101(44) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting in lieu thereof "and foreclosure of the debtor's equity of redemption; and"

(j) Section 101 of title 11 of the United States Code is amended—

(1) by redesignating paragraphs (41) through (44), as previously redesignated, as paragraphs (45) through (48);

(2) by redesignating paragraphs (21) through (40) as paragraphs (24) through (43), respectively;

(3) by redesignating paragraphs (19) and (20) as paragraphs (20) and (21), respectively;

(4) by inserting after paragraph (18) the following:

"(19) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer;"

(5) by inserting after paragraph (21) as redesignated herein the following:

"(22) 'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, or product or by product thereof, with a maturity date more than two days after the date the contract is entered into;

"(23) 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in commodities;"

(6) by inserting after paragraph (43) the following:

"(44) 'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title"; and

(7) by inserting after paragraph (48) the following:

"(49) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States;".

SEC. 422. Section 102 of title 11 of the United States Code is amended by striking out "continued" and inserting in lieu thereof "contained" in paragraph (8).

SEC. 423. Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

SEC. 424. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out "and" each place it appears and inserting in lieu thereof "or".

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting "nonbankruptcy" after "applicable" and after "entered in a" each place such terms appear.

SEC. 425. (a) Section 109 of title 11 of the United States Code, is amended by striking out "in the United States," the first place it appears.

(b) Section 109(c)(5)(D) of title 11 of the United States Code of this Act is amended by striking out "preference" and inserting in lieu thereof "transfer that is avoidable under section 547 of this title".

(c) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

SEC. 426. (a) Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" after "involuntary case".

(b) Section 303 of title 11 of the United States Code, is amended—

(1) in subsection (b)(1) by inserting "or the subject on a bona fide dispute," after "liability"; and

(2) in subsection (h)(1) by inserting "unless such debts that are the subject of a bona fide dispute" after "due".

SEC. 427. Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting in lieu thereof "debtor".

SEC. 428. Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting in lieu thereof "the case".

SEC. 429. Section 322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" after "bond".

SEC. 430. (a) Section 326(a) of title 11 of the United States Code is amended by striking out all the language beginning with "three percent" through "$50,000" the second place the latter appears and inserting in lieu thereof "and three percent on any amount in excess of $3,000".

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of

allowance under section 328(c) of this title or, with knowledge of such....

* * *

PUERTO RICO ELECTRIC POWER AUTHORITY

TO

U.S. BANK NATIONAL ASSOCIATION

as Successor Trustee

TRUST AGREEMENT

Dated as of January 1, 1974, as amended and supplemented through August 1, 2011

Article V
Revenues and Funds

* * *

Section 502. Covenant as to rates. The Authority further covenants that it will at all times fix, charge and collect reasonable rates and charges for the use of the services and facilities furnished by the System and that from time to time, and as often as it shall appear necessary, it will adjust such rates and charges so that the Revenues will at all times be sufficient.

(A) until the outstanding 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture:

(a) to pay the Current Expenses of the System, and

(b) to provide the greater of (i) the amount equal to one hundred twenty per centum (120%) of the aggregate Principal and Interest Requirements for the next fiscal year on account of all 1947 Indenture Bonds then outstanding and all bonds then

outstanding under this Agreement, reduced by any amount deposited to the credit of the Bond Service Account from the proceeds of bonds to pay interest to accrue thereon in such fiscal year, or (ii) the amount required to make the deposits, transfers and payments mentioned in items (1) through (4), inclusive, below:

(1) to make the deposits to the credit of the 1947 Sinking Fund which are required to be made in each fiscal year under the provisions of Section 507 of the 1947 Indenture,

(2) to make the deposits to the credit of the General Reserve Fund which are required to be made in each fiscal year under the provisions of Section 511 of the 1947 Indenture,

(3) to make the transfers to the credit of the Renewal and Replacement Fund which are required to be made in each fiscal year under the provisions of Section 512 of the 947 Indenture, and

(4) to make the payments which are required to be made in each fiscal year under the provisions of clause (a) of Section 513 of the 947 Indenture, and

(B) after the outstanding 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture:

(a) to pay the Current Expenses of the System, and

(b) to provide an amount at least equal to one hundred twenty per centum (120%) of the aggregate Principal and Interest Requirements for the next fiscal year on account of all the bonds then outstanding under this Agreement, reduced by ay

amount deposited to the credit of the Bond Service Account from the proceeds of bonds to pay interest to accrue thereon in such fiscal year.

The Authority further covenants that if at any time the Revenues shall not be sufficient to make such deposits, transfers and payments, it will revise the rates and charges for the services and facilities furnished by the System and, if necessary, it will revise its regulations in relation to the collection of bills for such services and facilities, so that such deficiency will be made up before the end of the next ensuing fiscal year. Should any deficiency not be made up in such next ensuing fiscal year, the requirement therefor, except as to the payments which are required to be made in such fiscal year under subclause (4) of clause (b) of paragraph (a) of this Section, shall be cumulative and the Authority shall continue to revise such rates until such deficiency shall have been completely made up.

Forthwith upon the adoption of any revision of rates and charges the Authority shall cause certified copies thereof to be filed with the trustee.

In the event that the Authority shall fail to adjust he schedule or rates and charges in accordance with the provisions of this Section, the Trustee, without regard to whether an event of default, as defined in Article VIII of this Agreement, shall have occurred, shall, upon the request of the holders of not less, than ten per centum (10%) in principal amount of all bonds then outstanding and upon being indemnified to its satisfaction, institute and prosecute in a court of competent jurisdiction an appropriate suit, action or proceeding to compel the Authority to adjust such schedule in accordance with the requirements of this

Section, and the Authority covenants that it will adopt and charge rates and charges in compliance with any judgment, order or decree entered in any such suit, action or proceeding.

Section 503. General Fund. A special fund is hereby created and designated the "Puerto Rico Electric Power Authority General Fund" (herein sometimes called the "General Fund"). The Authority covenants that, after the outstanding 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture, all Revenues, other than income from investments made under the provisions of this Agreement, will be deposited as received in the name of the Authority with a qualified depositary or depositaries to the credit of the General Fund and applied in accordance with the provisions of this Article.

* * *

Section 505. Application of moneys in General Fund. The Authority covenants that moneys in the General Fund will be used first for the payment of the Current Expenses of the System, that such expenses will not exceed an amount which is reasonable and necessary for maintaining, repairing and operating the System in an efficient and economic manner, and that the total amount of Current Expenses in any fiscal year will not exceed the amount provided therefor in the Annual Budget for such fiscal year or any amendment thereof or supplement thereto unless such expenses shall be required by conditions beyond the control of the Authority happening during such fiscal year and which could not reasonably have been contemplated

at the time of the adoption of the Annual Budget. If at any time the total amount theretofore expended during any fiscal year for Current Expenses shall exceed the total amount provided in the Annual Budget for Current Expenses for such fiscal year, the Authority covenants that it will report in writing the amount of such excess and the reason or reasons therefor to the Consulting Engineers and to the Trustee as soon as practicable but not later than the last day or the sixth month following the month in which such excess shall have occurred.

* * *

Section 601. Deposits constitute trust funds. All moneys received by the Authority under the provisions of this Agreement shall be deposited with a Depository or Depositaries, shall be held in trust, shall be applied only in accordance with the provisions of this Agreement and shall not be subject to lien or attachment by any creditor of the Authority.

All moneys deposited with the Trustee or any other Depositary hereunder in excess of the amount guaranteed by the Federal Deposit Insurance Corporation or other Federal agency shall be continuously secured for the benefit of the Authority and the holders of the bonds, either (a) by lodging with a bank or trust company approved by the Authority and by the Trustee as custodian, or, if then permitted by law, by setting aside under control of the trust department of the bank holding such deposit, as collateral security, Government Obligations, or, with the approval of the Trustee, other marketable securities eligible as security for the deposit of trust funds under applicable

regulations of the Comptroller of the Currency of the United States or applicable Commonwealth of Puertco Rico or state law or regulations, having a market value (exclusive of accrued interest) not less than the amount of such deposit, or (b) if the furnishing of security as provided in clause (a) of this Section is not permitted by applicable law, in such other manner as may then be required or permitted by applicable Commonwealth of Puerto Rico, state or Federal laws or regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds; provided, however, that it shall not be necessary for the Paying Agents to give security for the deposits of any moneys with them for the payment of the principal of or the redemption premium or the interest on any bonds issued hereunder, or for the Trustee to give security for any moneys which shall be represented by obligations purchased under the provisions of this Article as an investment of such moneys.

All moneys deposted with each Depositary, including the Trustee, shall be credited to the particular fund or account to which such moneys belong.

* * *

Section 701. Payment of principal, interest and premium. The Authority covenants that it will promptly pay the principal of and the interest on each and every bond issued under the provisions of this Agreement at the places, on the dates and in the manner specified herein and in said bonds and in the coupons, if any, appertaining thereto, and any premium required for the retirement of said bonds by purchase or redemption, according to the true intent

and meaning thereof. Until the 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture, such principal, interest and premium are payable solely from moneys in the Renewal and Replacement Fund and said moneys are hereby pledged to the payment thereof in the manner and to the extent hereinabove particularly specified. After the 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture, such principal, interest and premium will be payable solely from the Revenues and said Revenues are hereby pledged to the payment thereof in the manner and to the extent hereinafter particularly specified. Nothing in the bonds or in this Agreement shall be deemed to constitute the bonds a debt or obligation of the Commonwealth of Puerto Rico or any of its municipalities or other political subdivisions, and neither the Commonwealth of Puerto Rico nor any such municipalities or other political subdivisions shall be liable for the payment of the principal of or the interest on the bonds.

The Authority further covenants that so long as any bonds issuable as coupon bonds shall be outstanding it will cause offices or agencies where the coupon bonds and coupons may be presented for payment to be maintained in the Borough of Manhattan, City and State of New York.

* * *

Section 705. Payment of lawful charges. The Authority further covenants that, out of the Revenues, it will pay all municipal or governmental charges lawfully levied or assessed upon the System

or any part thereof or upon any Revenues when the same shall become due, that it will duly observe and comply with all valid requirements of any municipal or governmental authority relative to the System, that it will not create or suffer to be created any lien or charge upon the System or any part thereof or upon the Revenues ranking equally with or prior to the bonds, except the lien and charge of the 1947 Indenture Bonds and the bonds secured hereby upon the Revenues and except as otherwise permitted in this Agreement, and that, out of the Revenues, it will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the System or any part thereof or the Revenues; provided, however, that nothing contained in this Section shall require the Authority to pay or cause to be discharged, or make provision for, any such lien or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

* * *

Section 709. No inconsistent action. The Authority covenants and agrees that, so long as any of the bonds secured hereby shall be outstanding, none of the gross revenues of the System will be used for any purpose other than as provided in the 1947 Indenture and this Agreement, and that no contract or contracts will be entered into or any action taken by which the rights of the Trustee or of the bondholders might be impaired or diminished.

* * *

Section 712. Covenant against sale or encumbrance: exceptions. (a) The Authority covenants that so long as any bonds shall be outstanding under the provisions of this Agreement and except as in this Agreement otherwise permitted, it will not sell, lease or otherwise dispose of or encumber the System or any part thereof and will not create or permit to be created any charge or lien on the Revenues ranking equally with or prior to the charge or lien on the Revenues of the bonds issued under and secured by this Agreement. The Authority may, however, from time to time, sell any machinery, fixtures, apparatus, tools, instruments, or other movable property acquired by it in connection with the System, or any materials used in connection therewith, if the Authority shall determine that such articles are no longer needed or are no longer useful in connection with the construction or operation and maintenance of the System, and the proceeds thereof shall be applied to the replacement of the properties so sold or disposed of or shall be deposited (i) until the 1947 Indenture Bonds have been paid or provision has been made for their replacement and the release of the 1947 Indenture, to the credit of the Renewal and Replacement Fund, and (ii) after the 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture, to the credit of the Redemption Account in the Sinking Fund or the Construction Fund, at the option of the Authority; provided that in connection with the issuance of bonds, the Authority may secure its obligations to the provider of a credit or liquidity facility securing said bonds on a parity with the bonds. Notwithstanding the provisions of paragraph

(a) of this Section, the Authority may from time to time sell or lease such other property forming part of the System as is not needed or serves no useful purpose in connection with the maintenance and operation of the System, and the proceeds of any such sale of property which is declared by resolution of the Board to be unnecessary for the System shall be deposited, so long as any 1947 Indenture Bonds are outstanding, to the credit of the Renewal and Replacement Fund or to the credit of the 1947 Reserve Account, as may be provided by such resolution, and, after the 1947 Indenture Bonds shall have been paid or provision has been made for their payment and the release of the 1947 Indenture, to the credit of the Redemption Account in the Sinking Fund or the Construction Fund, as may be provided by such resolution. Until the 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture, the rentals under any such lease shall be deposited to the credit of the 1947 Revenue Fund, and thereafter such rentals shall be deposited to the credit of the Revenue Fund.

(b) Notwithstanding the provisions of paragraph (a) of this Section, after the 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture, the Authority may from time to time permanently abandon the use of, sell or lease any property forming a part of the System but only if

(1) there shall be filed with the Trustee prior to such abandonment, sale or lease a certificate, signed by the Executive Director and approved by the Consulting Engineers, stating

(A) that the Authority is not then in default in the performance of any of the covenants, conditions, agreements or provisions contained in this Agreement, and

(B) that the Net Revenues for any twelve (12) consecutive calendar months out of the eighteen (18) calendar months next preceding the date of such certificate, after giving effect to such abandonment, sale or lease and any replacement and after adjustment to reflect the moneys which would have been received if the rate schedule in effect on the date of such certificate had been in effect throughout such twelve (12) calendar months, are not less than one hundred twenty per centum (120%) of the maximum aggregate Principal and Interest Requirements for any fiscal year thereafter on account of all bonds then outstanding under the provisions of this Agreement, and

(2) The amount held by the Trustee to the credit of the Reserve Account in the Sinking Fund is the maximum amount required under the provisions of Section 507 of this Agreement.

The proceeds of the sale of any property forming part of the System under the provisions of paragraph (c) of this Section shall either be deposited by the Authority to the credit of the Redemption Account in the Sinking Fund or the Construction Fund, at the option of the Authority, or shall be applied to the replacement of the property so sold, and any property acquired as such replacement shall become a part of the System subject to the provisions of this Agreement. The rentals under any such lease shall be deposited to the credit of the Revenue Fund.

For purposes of paragraphs (b) and (c) of this Section, references to sales or leases shall include also other transfers of property and for purposes of paragraph (c) of this Section the transferee may be considered in lieu of the Authority or in addition to the Authority if the transferee agrees to assume the Authority's obligations under this Agreement and the Authority delivers to the Trustee an opinion of counsel to the Authority to the effect that the transferee's undertaking to assume the Authority's obligations hereunder is legally valid and binding with the same effect as though the transferee were the Authority. If the transferee is a public corporation or other governmental entity, such transfer shall be permitted notwithstanding the Authority's failure to demonstrate the necessary coverage requirement in paragraph (c) above; provided that the Authority delivers a certificate of its Consulting Engineers to the Trustee demonstrating that the coverage ratio shown in the above certificate is not reduced due to such transfer.

(a) Notwithstanding the provisions of paragraph (a) of this Section, except as may conflict with the provisions of the 1947 Indenture until the 1947 Indenture Bonds have been paid or provision has been made for their payment and the release of the 1947 Indenture, the Authority may lease portions of the System, or grant licenses, easements and other rights or make contracts or other arrangements for operation or use of portions of the System, if there shall be delivered to the Trustee the following:

(i) a report of the Consulting Engineers determining that (A) the proposed lessee or other contracting party is a financially responsible entity

with substantial experience in the operation and management of utilities of the type and size of the System, and (B) the available revenues projected to be derived from the portion of the System subject to the lease, contract, license, easement or other arrangement following the date on which such lease, contract, license, easement or other arrangement is to be effective are forecasted to be sufficient to pay to the Authority the rent or other payments provided by such lease, contract, license, easement or other arrangements and to make all necessary repairs, improvements and replacements to said portion of the System in the condition it was prior to such lease, contract, license, easement or other arrangement; and

(ii) a certificate of the Consulting Engineers to the effect that the lease, contract, license, easement or other arrangement provides (A) for rent or other payments sufficient, with other Net Revenues projected to be derived from the System, to make all payments of the Principal and Interest Requirements for all bonds which will remain outstanding following the execution and delivery of the lease, contract, license, easement or other arrangement, (B) operational covenants binding on the lessee or other contracting party similar to those covenants contained in this Agreement and (C) to the extent permitted by law in the case of a lease, for immediate termination of the lease of such lessee without resort to legal process in the event of a default under the lease; and

(iii) an opinion of counsel of recognized standing in the field of law relating to municipal bonds to the effect that the proposed transaction

would not adversely affect the federal income tax status of any Bonds.

The rentals and other payments under any such lease, contract, license, easement or other arrangement shall be included in the definition of Revenues and shall be deposited to the credit of the Revenue Fund.

* * *

Section 802. Events of default. Each of the following events is hereby declared an "event of default", that is to say, if:

(a) payment of the principal and the redemption premium, if any, of any of the bonds shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption or otherwise; or

(b) payment of any installment of interest on any of the bonds shall not be made when the same shall become due and payable; or

(c) the Authority shall for any reason be rendered incapable of fulfilling its obligations hereunder; or

(d) any part of the System necessary for its effective operation shall be destroyed or damaged and shall not be properly repaired, replaced or reconstructed; or

(e) final judgment for the payment of money shall be rendered against the Authority as a result of the ownership, control or operation of the System and any such judgment shall not be discharged within sixty (60) days from the entry thereof or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which

such judgment shall have been granted or entered, in such manner as to stay the execution of or levy under such judgment, order, decree or process or the enforcement thereof; or

(f) an order or decree shall be entered, with the consent or acquiescence of the Authority, for the purpose of effecting composition between the Authority and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or Commonwealth statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the Revenues; or

(g) any proceeding shall be instituted, with the consent or acquiescence of the Authority, for the purpose of effecting a composition between the Authority and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or Commonwealth statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the Revenues; or

(h) the Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the bonds or in this Agreement on the part of the Authority to be performed, including meeting any Amortization Requirement, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Authority by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of not less than ten per centum

(10%) in aggregate principal amount of the bonds then outstanding; or

(i) an event of default within the meaning of that term in Section 802 of the 1947 Indenture shall occur; or

(j) notice has been received by the Trustee and the Authority, from the bank or other financial or lending institution providing a credit or liquidity facility or other entity insuring, guaranteeing or providing for payments of principal or interest in respect of any bonds that an event of default has occurred under the agreement underlying said facility, or a failure by said bank or other financial or lending institution or other entity to make said facility available or to reinstate the interest component of said facility, in accordance with the terms of said facility, to the extent such notice or failure is established as an event of default under the terms of the resolution authorizing the issuance of said bonds.

Section 803. Acceleration of maturities. Upon the happening and continuance of any event of default specified in Section 802 of this Article, then and in every such case the Trustee may, and upon the written request of the holders of not less than twenty per centum (20%) in aggregate principal amount of the bonds then outstanding shall, by a notice in writing to the Authority, declare the principal of all of the bonds then outstanding (if not then due and payable) to be due and payable immediately, and upon such declaration in the same shall become and be immediately due and payable, anything contained in the bonds or in this Agreement to the contrary notwithstanding;

provided, however, that if at any time after the principal of the bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Agreement, moneys shall have accumulated in the Sinking Fund sufficient to pay the principal of all matured bonds and all arrears of interest, if any, upon all the bonds then outstanding (except the principal of any bonds not then due and payable by their terms and the interest accrued on such bonds since the last interest payment date), and the charges, compensation, expenses, disbursements, advances, and liabilities of the Trustee and all other amounts then payable by the Authority hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and every other default known to the Trustee in the observance or performance of any covenant, condition, agreement or provision contained in the bonds or in this Agreement (other than a default in the payment of the principal of such bonds then due and payable only because of a declaration under this Section) shall have been remedied to the satisfaction of the Trustee, then and in every such case the Trustee may, and upon the written request of the holders of not less than twenty per centum (20%) in aggregate principal amount of the bonds not then due and payable by their terms and then outstanding shall, by written notice to the Authority, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Section 804. Enforcement of remedies. Upon the happening and continuance of any event of default specified in Section 802 of this Article, then and in every such case the Trustee may proceed, and upon the written request of the holders of not less than ten per centum (10%) in aggregate principal amount of the bonds then outstanding hereunder shall proceed, subject to the provisions of Section 902 of this Agreement, to protect and enforce its rights and the rights of the bondholders under applicable laws or under this Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the appointment of a receiver as authorized by the Authority Act or for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights; provided, however, that the Trustee shall not be required to proceed for the appointment of a receiver of the System unless it shall receive the written request of the holders of not less than twenty-five per centum (25%) in principal amount of the bonds then outstanding under the provisions of this Agreement.

In the enforcement of any remedy under this Agreement the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due from the Authority for principal, interest or otherwise under any of the provisions of this Agreement or of the bonds and unpaid, with interest on overdue payments of principal at the rate

or rates of interest specified in such bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under such bonds, without prejudice to any other right or remedy of the Trustee or of the bondholders, and to recover and enforce any judgment or decree against the Authority, but solely as provided herein and in such bonds, for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect (but solely from moneys in the Sinking Fund and any other moneys available for such purpose) in any manner provided by law, the moneys adjudged or decreed to be payable.

* * *

Section 1102. Modification of Agreement with consent of 60% of bondholders. Subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than sixty per centum (60%) in aggregate principal amount of the bonds then outstanding shall have the right, from time to time, anything contained in this Agreement to the contrary notwithstanding, to consent to and approve the execution by the Authority and the Trustee of such agreement or agreements supplemental hereto as shall be deemed necessary or desirable by the Authority for the purpose of modifying, altering, amending, adding to, repealing or rescinding, in any particular, any of the terms or provisions contained in this Agreement or in any supplemental agreement; provided, however, that nothing herein contained shall permit, or be construed as permitting, (a) an extension of the maturity of the principal of or the interest on any bond issued hereunder, or (b) a reduction in the principal amount of any bond or the redemption

premium or the rate of interest thereon, or (c) the creation of a lien upon or a pledge of the Revenues other than any lien and pledge created or permitted by this Agreement, or (d) a preference or priority of any bond or bonds over any other bond or bonds, or (e) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental agreement. Nothing herein contained, however, shall be construed as making necessary the approval by bondholders of the execution of any supplemental agreement as authorized in Section 1101 of this Article.

If at any time the Authority shall request the Trustee to enter into any supplemental agreement for any of the purposes of this Section, the Trustee shall, at the expense of the Authority, cause notice of the proposed execution of such supplemental agreement to be published once in each week for four (4) successive weeks in a daily newspaper of general circulation published in the Municipality of San Juan, Puerto Rico, and in a daily newspaper of general circulation or a financial journal published in the Borough of Manhattan, City and State of New York, and, on or before the date of the first publication of such notice, the Trustee shall also cause a similar notice to be mailed, postage prepaid, to all registered owners of bonds at their addresses as they appear on the registration books and all bondholders of record. Such notice shall briefly set forth the nature of the proposed supplemental agreement and shall state that copies thereof are on file at the principal office of the Trustee for inspection by all bondholders. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to mail the notice required by

this Section, and any such failure shall not affect the validity of such supplemental agreement when consented to and approved as provided in this Section.

Whenever, at any time within one year after the date of the first publication of such notice, the Authority shall deliver to the Trustee an instrument or instruments in writing purporting to be executed by the holders of not less than sixty per centum (60%) in aggregate principal amount of the bonds then outstanding, which instrument or instruments shall refer to the proposed supplemental agreement described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Trustee may execute such supplemental agreement in substantially such form, without liability or responsibility to any holder of any bond, whether or not such holder shall have consented thereto.

If the holders of not less than sixty per centum (60%) in aggregate principal amount of the bonds outstanding at the time of the execution of such supplemental agreement shall have consented to and approved the execution thereof as herein provided, no holder of any bond shall have any right to object to the execution of such supplemental agreement, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action pursuant to the provisions thereof.

Upon the execution of any supplemental agreement pursuant to the provisions of this Section, this Agreement shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Agreement of the Authority, the Trustee and all holders of bonds then outstanding shall thereafter be determined, exercised and enforced in all respects under the provisions of this Agreement as so modified and amended.

* * *

NEW ISSUE-BOOK-ENTRY ONLY

RATINGS (see RATINGS herein):

S&P: BBB
Moody's: Baa3
Fitch: BBB-

$673,145,000

PUERTO RICO ELECTRIC POWER AUTHORITY

Power Revenue Bonds, Series 2013A

The Power Revenue Bonds, Series 2013A (the "Bonds") of Puerto Rico Electric Power Authority (the "Authority") are being issued pursuant to a Trust Agreement, dated as of January 1, 1974, as amended, between the Authority and U.S. Bank National Association, New York, New York, successor trustee (the "Trust Agreement"). The Bonds, the outstanding bonds previously issued under the Trust Agreement, and any additional bonds that the Authority may from time to time issue under the Trust Agreement, are payable solely from the Net Revenues (as described herein) of the Authority's electric generation, transmission and distribution system.

The Bonds will have the following characteristics:

- The Bonds will be dated their date of delivery.

- The Bonds will be registered under the book-entry only system of The Depository Trust Company ("DTC"). Purchasers of the Bonds will not receive definitive Bonds.

- Interest on the Bonds will be payable on January 1, 2014 and on each January 1 and July 1 thereafter.

- The Bonds will be subject to redemption, commencing on July 1, 2023, as described herein. See *Mandatory Redemption* and *Optional Redemption* under DESCRIPTION OF THE BONDS for more information.

- The inside cover page contains the maturity schedule, interest rates and prices or yields of the Bonds.

- In the opinion of Bond Counsel, under the provisions of the Acts of Congress now in force, (i) subject to continuing compliance with certain tax covenants, interest on the Bonds will not be includable in gross income for federal income tax purposes and (ii) the Bonds and interest thereon will be exempt from state, Commonwealth of Puerto Rico and local income taxation under existing law. However, see TAX MATTERS herein for a description of alternative minimum tax consequences with respect to interest on the Bonds and other tax considerations.

- The Authority expects that the Bonds will be available for delivery through DTC on or about August 21, 2013.

- The issuance of the Bonds and the purchase of the Bonds by the Underwriters are subject to the approval of legality by Sidley Austin LLP, New York, New York, Bond Counsel, and certain other conditions. Fiddler

Gonzalez & Rodriguez, P.S.C., San Juan, Puerto Rico, will pass upon certain legal matters for the Underwriters.

The Bonds are not a debt or obligation of the Commonwealth of Puerto Rico or any of its municipalities or political subdivisions, other than the Authority, and neither the Commonwealth of Puerto Rico nor any of its municipalities or political subdivisions, other than the Authority, shall be liable for the payment of the principal of or interest on the Bonds.

Morgan Stanley		**Wells Fargo Securities, LLC**	
Citigroup			**JP Morgan**
BofA Merrill Lynch	**Barclays**	**FirstBank PR Securities**	**Goldman Sachs & Co.**
Jefferies	**Mesirow Financial, Inc.**	**Oriental Financial Services**	**Popular Securities**
Ramirez & Co., Inc.	**RBC Capital Markets**	**Santander Securities Scotia MSB**	**UBS FS Puerto Rico**

August 15, 2013